



Town of Johnstown

PLANNING & ZONING COMMISSION REGULAR MEETING

7:00 PM, Wednesday, December 15, 2021

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of Agenda
- IV. Public Comments Regarding Items Not on the Agenda (limited to 3 minutes each)
- V. New Business
 - a. General Commission & Planning Discussions
 - i. CML 2021 Board & Commission Handbook
 - ii. Roberts Rules & Meetings Cheatsheets
 - iii. Various handouts
 - b. Proposed Bylaw Amendment
 - c. Election of Vice Chair
 - d. PZC Candidate Discussions
 - e. Email Policy
- VI. Director's Report
- VII. Commissioner Reports
- VIII. Adjournment

The Community That Cares

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BOARDS & COMMISSIONS

HANDBOOK

September 2018



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INTRODUCTION

Congratulations! Your appointment to a board or commission in your city or town provides you with a valuable opportunity for public service, and your time and effort are appreciated. Although the specific duties assigned to the board or commission you serve on may vary, the information contained in this handbook will serve as a general guide to your new role.

Scope of this handbook

This handbook cannot address every subject that appointed board and commission members may face. Nor does this handbook claim there is any one best way for appointed board and commission members to perform their jobs. Instead, it is a compilation of the ideas and experiences of a large number of municipal officials from Colorado and other states, assembled here with the hope that it may offer both veteran and newly appointed officials the benefit of this perspective and experience.

State statutes provide considerable detail on what municipalities can and cannot do. While this book does more than merely outline legal matters, much of the content is based on pertinent provisions of the state statute. This text is not intended as a substitute for study of the statutes or for competent legal counsel.

MUNICIPAL GOVERNMENT STRUCTURE: AN OVERVIEW

The democratic heritage of municipal government

Municipal officials, unlike their counterparts in federal and state offices, are in direct contact with the citizens they serve on a continuing basis. Citizens hold their local officials responsible for everything from the state of the local economy to whether the potholes in the streets need repairing. This is municipal government in action: a living demonstration that people who live together in a community can and want to solve their own problems.

Colorado is home to 272 separate municipalities that range in population from fewer than 20 residents to more than 600,000.

Colorado cities and towns operate under provisions of Colorado state statutes (and are referred to as “statutory” cities and towns) unless voters adopt a municipal charter to become a “home rule” city or town. Home rule is based on the concept that the citizens of a municipality have the right to decide how their local government should be organized and how their local problems should be solved. Municipal home rule derives its authority directly from the Colorado Constitution. Home rule governance affords residents freedom from the need for state-enabling legislation and protection from state interference in both local and municipal matters.

The role of the governing body

Local governing bodies in Colorado may be in the form of an elected city council or board of trustees. Elected officials become caretakers of their community’s public life. The job of the municipal governing body is often stated simply: set public policy.

The governing body sets the vision that reflects what they believe best represents their constituency’s interests and sets priorities for the municipality in order to develop this vision. One of the most important ways the governing body does this is through the adoption of an annual budget.

The role of manager or administrator

The city (or town) manager is the chief administrative officer of the city and is responsible directly to the city council for the performance of his or her duties.¹ The manager directs the work of staff in implementing the vision set by the governing body.

The role of boards and commissions

Boards, commissions, and citizen committees provide the governing body with a great deal of assistance by recommending public policy and transforming policy decisions into action. Some boards or commissions are required or permitted by statute, while others are created by ordinance, resolution, or motion. Some are empowered to make administrative

¹ C.R.S. § 31-4-211.

decisions, others can only make recommendations to the governing body, and still others are primarily fact-finding bodies. Some boards and commissions are permanently established, while others are established for a limited time to accomplish a single purpose and cease to exist once their functions are completed.

Boards and commissions give the municipality an opportunity to leverage the talents of local specialists in certain fields and permit community members with special interests to serve the community in an area of personal concern.

The first step to understanding a board or commission's role in its municipality is to look at the original authority for the creation of the board or commission. This is found in a variety of places, such as the home rule charter or in ordinances or resolutions. In some cases (such as planning commissions), the authority is derived from state statute.

The second step to understanding the role of a board or commission is to identify whether it is an advisory body or a decision-making body. Again, this information can be found in the enabling authority of the board or commission. Decision-making boards are those that have specific authority to rule on policy decisions. Some examples of this type of boards and commissions are planning commissions,² liquor licensing authorities,³ and zoning boards of adjustment.⁴ Your municipal attorney is also a resource for clarifying your roles and responsibilities.

The role of staff liaison

Staff support is available to boards and commissions through the various staff members assigned as liaisons to help each group. The staff liaison may handle meeting logistics such as scheduling, setup, and public notification, as well as agenda preparation and distribution. The staff liaison is a great resource for any questions you may have.

² C.R.S. § 31-23-202.

³ C.R.S. § 12-47-201, et seq.

⁴ C.R.S. § 31-23-307.

MEETING PROCEDURE BASICS

This section is an overview of the methods for conducting meetings of city and town boards and commissions. Please consult with your city or town staff for specific guidelines that may apply to the board or commission on which you serve. Legal considerations for conducting meetings under the Open Meetings Law are discussed later in this manual.

General and legal requirements

Regular, required meetings

Regular meetings are those meetings of a municipal governing body, such as the city council or town board, that occur at fixed or established intervals. The statutes do not require either city or town boards or commissions to meet at regular intervals. However, a municipal code might set meeting requirements for certain or all boards and commissions. Attendance expectations and requirements vary and may be outlined in your municipality's code or resolutions.

For persons serving on boards and commissions, you may be interested in attending the regular meetings of your governing body in order to understand the policies and processes on which you are making recommendations and/or taking action. Your board or commission may also be asked to present your recommendations at a regular meeting of the governing body.

Special meetings

A special meeting of a municipal governing body is a separate session that is held at a time different from that of the regular meeting. Special meetings are convened most often to consider only one or two items of business that require the immediate action of the board or commission prior to the next regular meeting. The method for calling a special meeting, if permitted for a board or commission, is often prescribed by local ordinance.

Rules of procedure

Each board and commission should adopt a set of rules by which to operate. These rules can incorporate *Robert's Rules of Order*⁵ or any other set of prepared rules, or simply be established by the governing body. Such rules guide the board or commission, make the process more stable and predictable, and reduce disputes concerning correct procedure.

Meeting routine

Most agenda formats may be divided into two categories: (1) procedural items of business that occur at most meetings (including the roll call, opening ceremonies, reading and approval of minutes, etc.) and (2) nonprocedural items of business that may vary from meeting to meeting.

⁵ Henry M. Robert, et al., *Robert's Rules of Order Newly Revised* (10th ed., 1981) [hereinafter *Roberts Rules of Order*].

There is no “correct” organization or ordering of business, and state law requires no particular order be followed. Many cities and towns, however, have prescribed a local ordering of business, either by charter, ordinance, resolution, or the body’s rules of procedure.

While variations on the order of business abound, a fairly common order might look like this:

- Call to order
- Roll call
- Reading and approval of minutes
- Public comments
- Reports from officers or municipal staff
- Public hearings, final reading and voting
- Unfinished business
- New business
- Extended public hearings
- Adjournment

Agenda

A meeting’s agenda is the statement of the purpose for the meeting and the basis of all other planning. A written copy of the agenda often is prepared and distributed to board or commission members and other interested persons to inform them of the specific items of business that will be considered at a meeting.

While the municipal staff often prepares the agenda, this responsibility varies from municipality to municipality and is usually set by the governing body.

Agenda analysis (Are meetings too long?)

An agenda should include only as many items of business as can be considered in the time allotted for the meeting. If there are 32 items on the agenda and each item is estimated to take “only” 10 minutes, the board or commission is in store for a six-hour meeting. Reducing the number of items placed on the agenda is often a difficult task. Some ideas to eliminate or consolidate agenda items are:

- A specific type of decision may be handled by staff with a brief summary report being made to the board or commission from time to time.
- The board or commission may establish policies to handle reoccurring decisions, then direct staff members to follow the policy.
- The board or commission may evaluate whether items are being postponed to future meetings when they could be dealt with at the present meeting. While decisions should not be made in a casual or hasty manner, board and commission members should resist postponing items in the hope that, at the next meeting, a whole new set of facts will surface and make the decision easier. Delay, when

it results in a better decision, is commendable; but delay, so that an official does not have to act on a sticky question, may be inefficient and irresponsible.

- The board or commission may set definite times for the meeting to come to order and to adjourn. Few board or commission meetings achieve much of value after four hours, and two hours is usually enough time to allocate for most meetings. Time limits also may be set for special hearings that are not required by law, for citizen participation periods and for the debate by board and commission members.

Conducting the meeting

Quorum

Before a body, such as a board or commission, may proceed to its first item of business, the presiding officer must determine that a quorum is present. A quorum is a majority of all the members of the body and it is a number that, if present, is sufficient to transact most government business. In the absence of a quorum, any business transacted and actions taken by the body will be null and void. In fact, the only action that may be taken by a board or commission in the absence of a quorum is a motion to adjourn.

The presiding officer

The presiding officer, often referred to as “the chair,” is the director and leader of any meeting of the municipal body. It is the presiding officer’s responsibility to see that the meeting moves forward in an orderly fashion, that discussion is guided and controlled, and that the meeting runs as smoothly as possible. For a board or commission, a similar presiding officer is necessary to lead the smooth process of business.

The success of presiding officers may depend upon their ability to remain impartial and to keep business moving. Frequent displays of partisanship or favoritism risk destroying members’ and citizens’ respect for the presiding officer.

Agenda item discussion

While there are several approaches to agenda item discussion and no single “right” way to conduct the discussion, one possible format follows:

1. The presiding officer should announce the agenda item and briefly describe the subject to be discussed.
2. The presiding officer should invite the appropriate people to report on the item and provide recommendations. The report may come from a member of the board or commission, municipal staff, or a member of the public invited by the board or commission to provide information on the item.

3. The presiding officer should then open the agenda item to the board or commission to ask questions.
4. If appropriate, the presiding officer may invite public comments after the board or commission has had the opportunity to ask their questions about the agenda item. More information on involving the public is available in the section, "Involving the public."
5. Once the public comment period (if applicable) is over, the presiding officer can request a motion to be made from a member of the board or commission. A second is typically required to ensure that more than one person on the board or commission is in agreement with the motion before the question is posed to the rest of the body for a vote. The presiding officer may wish to announce who made the motion and the second for purposes of meeting minutes.
6. Once the motion has been made and seconded, the presiding officer can entertain debate from the board or commission. If little or no discussion takes place, the presiding officer can proceed directly to the vote. If the discussion is lengthier, the presiding officer may wish to restate the motion to be sure that everyone understands the question before them prior to taking a vote.
7. After closing the discussion, the presiding officer calls for a vote. The vote typically involves asking for the "ayes" and then the "nays." Unless specific legal provisions require a super majority, a simple majority is all that is needed to pass a motion. The presiding officer announces the results of the vote and may note the dissenting votes for the purpose of meeting minutes.

Motions in a nutshell

Motions are vehicles for decision-making. There are three basic types of motions:

- *The basic motion.* The basic motion is the one that puts forward a decision for consideration. A basic motion might be: "I move that we create a five-member committee to plan our annual fundraiser."
- *The motion to amend.* If a member wants to change a basic motion under discussion, he or she would move to amend it. A motion to amend might be: "I move that we amend the motion to have a 10-member committee."
- *The substitute motion.* If a member wants to completely do away with the basic motion under discussion and put a new motion before the governing body, that member would "move a substitute motion." A substitute motion might be: "I move a substitute motion that we cancel the annual fundraiser this year."

Other types of motions

Beyond the basic motions listed above, there are other types of motions that are used on occasion during meetings. For more information about the types

of motions and examples, please refer to *Robert's Rules of Order, Newly Revised*.

Involving the public

Each board or commission may afford members of the public an opportunity to speak to any matter coming within the purview of the board or commission. The board or commission may impose time limitations on such public input as necessary to conduct the business of the meeting in a timely and efficient manner.

The method by which citizens are allowed to speak at a board or commission meeting varies from community to community, and the procedures may be established by ordinance, resolution, rule, or tradition. It is important to ensure that the ground rules of the meeting are known to all, not just the chair. Remember that some of the public participants are first-time visitors and some may have never participated in a professional meeting before. Methods of allowing public comment include:

- Allowing the public to comment at any time throughout the meeting as long as their comments are restricted to the agenda item currently under consideration.
- Allowing a specific period during which the public is invited to speak on matters listed on the agenda.
- Allowing a specific period during which the public is invited to speak on any matter other than those listed on the agenda. This method is often used in combination with one of the two previous methods.

When a board or commission holds a public comment period, it must consider certain issues: How quickly will the commission or board respond to a citizen's request? Will any discussion be allowed? For example, if a citizen brings a request for a drainage improvement on his or her property, will discussion of this concern occur?

Public hearings

A public hearing is any meeting or portion of a meeting of a body, such as the town board or commission, at which members of the public are given the opportunity to speak on specific matters on the agenda for hearing. As such, public hearings are distinguished from citizen participation or public comment.

Some public hearings are required by law. The board or commission cannot make a decision until it has concluded public hearing on the matter.

No public hearing can be successful unless the people attending the hearing understand the issues to be discussed. The following recommendations can promote orderly public participation during a public hearing.

- Establish rules of procedure before the hearing and read them at the beginning of the hearing so that everyone understands how the hearing will be conducted.

- Announce that issues will be considered in the order listed on the agenda.
- Ask anyone who wishes to speak at the hearing to register or otherwise sign-up to help keep track of comments and the persons making those comments for the public record.
- Set time limits on how long speakers can talk and apply the limits on every person who speaks.
- Allow each person who wishes to speak a chance to do so before allowing a second round of comments.
- To clarify for the audience and the public record, ask each speaker to begin by stating his or her name and address, any group being represented, if any, and how many people he or she represents.
- Establish ahead of time whether board or commission members or other participants at the hearing will be allowed to ask questions of a speaker after his or her presentation.
- State that disruptive behavior will not be tolerated.

When a large number of citizens attend a meeting to speak about an issue, there are a number of strategies to ensure that everyone's opinion is heard without unduly lengthening the meeting. The presiding officer can ask the citizens to sign in either "for" or "against" the particular issue at hand, and then request a representative from each group to speak on behalf of the others. The body may also simply ask members in the audience who are in agreement with the speaker to stand and acknowledge that fact in lieu of speaking. Additionally, the presiding officer can set shorter time limits per speaker.

COLORADO'S OPEN MEETINGS LAW

All 50 states, as well as the federal government, have enacted a variation of a “Sunshine Law,” requiring certain proceedings of government agencies to be open to the public.

This section will answer the most common questions concerning the requirements of Colorado’s Open Meetings Law:

- Who is covered?
- What is a “meeting”?
- When are “executive sessions” permitted?
- What advance notice of a meeting is required?
- What exemptions are there?
- What happens to those who violate the law?

Scope of the Open Meetings Law – “Local public bodies” and “meetings”

Put simply, the Open Meetings Law declares that whenever three or more members (or a quorum of the members, if fewer than three) of the “local public body” get together and public business is discussed or formal action may be taken, the gathering is a “meeting” and must be open to the public.⁶

What is a “local public body”?

The Open Meetings Law defines a “local public body” to include political subdivisions of the state, such as municipalities, and any other formally constituted body of the political subdivision that performs an advisory, policymaking, or rulemaking role.⁷ This definition, by its terms, includes boards, committees, commissions and authorities of the municipality. However, “persons on the administrative staff” of a local public body are specifically excluded.⁸

What constitutes a “meeting”?

The statute broadly defines a “meeting” as “any kind of gathering, convened to discuss public business, in person, by telephone, electronically, or by other means of communication.”⁹ Conversely, chance meetings of public officials, or social gatherings at which discussion of public business is not the “central purpose,” are not subject to the provisions of the Open Meetings Law.¹⁰ However, be aware that a chance meeting may develop into a problem if you have a quorum of the body in attendance and the conversation turns to official matters.

⁶ C.R.S. § 24-6-402(2)(b).

⁷ C.R.S. § 24-6-402(1)(a)(i).

⁸ C.R.S. § 24-6-402(1)(a)(i).

⁹ C.R.S. § 24-6-402(1)(b).

¹⁰ C.R.S. § 24-6-402(2)(e).

Meetings conducted by “telephone, electronically, or by other means of communication”

The General Assembly has included electronic, as well as “other means” of communication under the statutory definition of “meeting.”¹¹

The Open Meetings Law now explicitly subjects the e-mail communication of elected officials to the statutory requirements if it includes discussion of pending legislation or other public business.¹²

What this means is that the open meetings requirements apply to your board and commission, regardless of the manner in which the meeting is held. For example, if a discussion of official matters unfolds over email and a quorum of the body is included on the email, the open public meetings requirements apply.¹³

Retreats

Under the expansive definition of “meeting” in the statute, “any kind of gathering” that is held to discuss public business may qualify. Thus, if the retreat is attended by three or more members of the local public body, or by a quorum of the body (if fewer than three), and public business is discussed, the retreat qualifies as an open meeting to which requirements for notice apply.¹⁴ Of course, an unlimited number of administrative staff members may attend the retreat, due to the specific exclusion of administrative staff from the “local public body” definition.¹⁵

Providing notice of the meeting

The public cannot exercise its right to attend open meetings unless given sufficient notice. Therefore, the Open Meetings Law requires that the public receive “full and timely notice” of any meeting held, and the posting shall include specific agenda information where possible.¹⁶

“Full and timely” notice

The statute does not explicitly specify or limit what may constitute “full and timely notice.” The statute does, however, indicate that a meeting notice must be posted in the designated public place no less than twenty-four hours before the meeting.¹⁷ The courts have found that the notice provisions of the Open Meetings Law establish a “flexible standard,” the requirements

11 C.R.S. § 24-6-402(1)(b) A meeting is also described in the context of email communications, is presumed by many municipal attorneys to imply that such email communications must occur in a “chat room” format or otherwise be contemporaneous, in order to constitute a “meeting.” At this writing, however, no Colorado court decision had adopted this presumption.

12 C.R.S. § 24-6-402(2)(d)(III) This requirement presents numerous potential practical problems for local government officials seeking to comply with the openness, notice, and other requirements of the Open Meetings Law, in the email context. Close consultation with the municipal attorney is advised.

13 However, electronic mail communication among elected officials that does not relate to pending legislation or other public business is not considered a meeting. C.R.S. § 24-6-402(2)(d)(III).

14 C.R.S. § 24-6-402(2)(c).

15 C.R.S. § 24-6-402(1)(a).

16 C.R.S. § 24-6-402(2)(c),

17 C.R.S. § 24-6-402(2)(c).

of which may vary depending on the particular type of meeting involved.¹⁸ However, the statute requires the local public body to designate the public place where the body will post notice at its first regular meeting each year.¹⁹

Emergency meetings

Unlike similar statutes from other states, the Colorado Open Meetings Law contains no reference to emergency meetings, which by their very nature present a challenge in terms of public notice. The Colorado Court of Appeals has recognized the need for municipalities to hold emergency meetings on occasion, and has upheld an ordinance providing for such meetings without prior public notice, where action taken would be ratified at a subsequent public meeting for which full and timely notice is provided.²⁰ The court defined an emergency as “an unforeseen combination of circumstances or the resulting state that calls for immediate action,”²¹ and acknowledged that the notice requirement may be affected by the type of meeting involved.²² While this decision finds no conflict between a local emergency meeting ordinance and the Open Meetings Law, officials should remain mindful of the law’s intent and give as much notice as possible under the circumstances.

Direct notification requirements

The Open Meetings Law contains a provision requiring the clerk to maintain a list of persons who have requested, within the previous two years, direct notification of meetings, whether the request be for all meetings or only when certain specified policies will be discussed.²³

The clerk is required to provide these persons with “reasonable advance notice” of such meetings, but the statute does not specify what sort of notice or what time frame will be considered reasonable.²⁴ Further, unintentional failure to give this direct notification will not invalidate actions taken at an otherwise properly published meeting.²⁵

Minutes

The clerk, or other official in the clerk’s absence, must take the minutes of any meeting of the local body “at which the adoption of any proposed policy, position, resolution, rule, regulation, or formal action occurs or could occur.”²⁶ After the meeting, the minutes must be promptly recorded and are considered a public record open to inspection.²⁷

18 *Town of Marble v. Darien*, 181 P.3d 1148 (Colo. 2008) (citing *Benson v. McCormick*, 578 P.2d 651, 653 (Colo. 1978)); *VanAlstyne v. Housing Auth. of the City of Pueblo*, 985 P.2d 97, 100 (Colo. App. 1999).

19 C.R.S. § 24-6-402(2)(c).

20 *Lewis v. Town of Nederland*, 934 P.2d 848 (Colo. App. 1997); but see *VanAlstyne v. Housing Auth. of the City of Pueblo*, as to the limits of subsequent ratification of action taken in prior non-emergency meeting held without proper notice.

21 *Lewis v. Town of Nederland*, 934 P.2d 848, 851 (Colo. App. 1997) (quoting *Webster’s Third New International Dictionary* 741 (1986)).

22 *Lewis v. Town of Nederland*, 934 P.2d 848, 851 (Colo. App. 1997).

23 C.R.S. § 24-6-402(7).

24 C.R.S. § 24-6-402(7).

25 C.R.S. § 24-6-402(7).

26 C.R.S. § 24-6-402(2)(d)(II).

27 C.R.S. § 24-6-402(2)(d)(II).

Executive sessions

Because the underlying principle of the Open Meetings Law is that the formation of public policy is public business, and therefore cannot be conducted in secret, the exceptions provided by statute are limited and strictly tailored to situations where the General Assembly has determined that public discussion could be contrary to the public interest.

Topics of executive sessions

The statutes limit these private meetings, referred to as “executive sessions,” to the following situations:

- the purchase, sale, or lease of real and personal property;
- attorney conferences;
- confidential matters under state or federal law;
- security arrangements or investigations;
- negotiations;
- personnel matters; and
- documents protected under Open Records Act.

Procedure for calling an executive session

Local government bodies may only call an executive session at a regular or special meeting.²⁸ While the Open Meetings Law requires “full and timely notice” of the regular or special meeting, there is no notice requirement that would impair the body from spontaneously calling an executive session during one of its meetings.

The local government body must first announce the topic of discussion, including the specific citation to the Open Meetings Law that authorizes consideration of the announced topic in executive session, as well as identify the particular matter to be discussed in as much detail as possible without compromising the purpose for which the executive session is authorized, and then vote on whether to hold the session for the purpose of discussing only the topic announced. Two-thirds of the quorum present must vote affirmatively before the local government body can close the meeting to the public.²⁹

The local government body cannot utilize the open meeting to simply “rubber stamp” the position adopted by it while in executive session.³⁰ The public cannot “participate in a public meeting if [it] witnesses only the final recorded vote.”³¹

²⁸ C.R.S. § 24-6-402(4).

²⁹ C.R.S. § 24-6-402(4).

³⁰ *Littleton Educ. Ass’n v. Arapahoe Cty Sch. Dist.* No. 6, 553 P.2d 793, 798 (Colo. 1976); *Bagby v. Sch. Dist. No. 1*, 528 P.2d 1299, 1302 (Colo. 1974); *Hudspeth v. Bd. of Cty. Comm’rs of Routt Cty.*, 667 P.2d 775 (Colo. App. 1983).

³¹ *Bagby v. Sch. Dist. No. 1, Denver*, 528 P.2d 1299, 1302 (Colo. 1974).

The executive session record

The Open Meetings Law requires that an electronic record be made of an executive session of a local public body,³² unless the attorney representing the local public body (who must be in attendance) determines that the attorney-client privilege applies to the executive session.³³ The law requires that executive session records reflect the “actual contents” of the discussion during the session, as well as the citation to the specific provision of the Open Meetings Law that authorizes the session. If a written record is used, the record must include a signed statement by the person presiding over the session attesting that the minutes “substantially reflect the substance” of the discussion that took place.

The executive session record must be retained for at least 90 days following the date of the executive session.³⁴

Penalties for violation of Open Meetings Law

The underlying goal of the Open Meetings Law is to create an atmosphere of openness in public matters, not to “punish” those who violate the provisions. In keeping with this prevailing philosophy, the Colorado law contains no criminal sanctions for noncompliance.

Although members of governing bodies do not risk criminal punishment for transgressions, there are other consequences:

- Any action taken at a meeting that does not comply with the Open Meetings Law requirements is void.³⁵
- If the court finds that a public body has violated the Open Meetings Law, it must award the prevailing citizen or citizens costs and reasonable attorney fees.³⁶
- There is also the potential for a serious loss of confidence in the government when official actions are invalidated because laws aimed at assuring open government are violated.

32 C.R.S. § 24-6-402(2)(d.5)(II)(A).

33 C.R.S. § 24-6-402(2)(d.5)(II)(B). There is also an exception for electronic recordings of executive sessions discussing individual students. C.R.S. § 24-6-402(2)(d.5)(II)(A), C.R.S. § 24-6-402(4)(h).

34 C.R.S. § 24-6-402(2)(d.5)(II)(E).

35 C.R.S. § 24-6-402(8); See *Gray v. City of Manitou Springs*, 598 P.2d 527, 529 (Colo. App. 1979).

36 C.R.S. § 24-72-204(5.5). Furthermore, this award does not require that the violation be “knowing and intentional.” *Zubeck v. El Paso Cty. Retirement Plan*, 961 P.2d 597, 601-602 (Colo. App. 1998).

ETHICS AND LOCAL OFFICIALS

Overview of state laws

The Colorado Constitution, state statutes, and oftentimes local charters and ordinances have provisions relating to ethical principles and conflicts of interest. While this section provides an orientation to laws governing ethics, the state conflict of interest statutes are subject to varied interpretations and particular applications, depending on the facts of the situation. For home-rule municipalities with local provisions that may conflict with state provisions, a legal question may arise over which law controls. If you believe your conduct may be affected by any of the state laws we describe, your best course of action is to seek the guidance of your municipal attorney.

Ethics laws that apply to local government officials, including members of boards and commissions, can be found in three separate sections of the Colorado Revised Statutes³⁷ as well in Article 29 of the State Constitution (sometimes referred to as Amendment 41).

Colorado “Code of Ethics”

The Colorado Code of Ethics³⁸ identifies several rules of conduct for local government officials, which includes boards and commissions, as well as local government employees.

The following are explicitly prohibited:

- using confidential information for personal benefit;
- accepting gifts or economic benefits as rewards or inducements;
- transacting business with those one supervises or inspects;
- acting to benefit one’s business or client; and
- taking a personal or business interest in municipal contracts.

Exclusions from the Colorado “Code of Ethics”

The code provides that it is not a breach of fiduciary duty or the public trust for a local government official or employee to:

- use local government facilities or equipment to communicate with constituents, family members or business associates, (as long as the use of these facilities is not otherwise prohibited, such as for campaign purposes), or
- accept or receive benefits as an indirect consequence of transacting local government business.³⁹

37 C.R.S. §24-18-101, et seq.; C.R.S. § 31-4-404; C.R.S. § 18-8-308.

38 C.R.S. § 24-18-101, et seq.

39 C.R.S. § 24-18-109(4).

The municipal “disclosure and abstention” statute

The disclosure of conflicts of interest and abstention from voting rules are found at C.R.S. § 31-4-404(2) and (3). These statutory provisions require that a member of the governing body of a city or town who has a “personal or private” interest in any matter proposed or pending before the governing body shall:

- disclose such interest to the governing body,
- not vote, and
- not attempt to influence the votes of other members of the governing body.⁴⁰

However, a member of the governing body may vote notwithstanding his or her personal or private interest if:

- the member’s participation is necessary to achieve a quorum or otherwise enable the body to act, and
- disclosure prior to official activity is made pursuant to the voluntary disclosure provision of the Code of Ethics.⁴¹

Board and commission members should avoid voting on matters in which they may have a conflict of interest, as well as avoid attempting to influence other members on those matters. Such conflicts should be properly disclosed. If a situation like this arises, consult with your municipal attorney.

Colorado Criminal Code

The Colorado Criminal Code contains additional disclosure requirements affecting local government officials and employees.

The disclosure requirement is triggered when a local government official has a “known potential conflicting interest” affected by an impending exercise of a “substantially discretionary function with respect to a government contract, purchase, payment, or other pecuniary transaction.”⁴² The code provision requires disclosure in writing to the Secretary of State 72 hours *before* any action is taken.

Voluntary disclosure

Section 24-18-110 provides for voluntary disclosure by a local government official or employee of the “nature of his private interest” prior to acting in a manner that may impinge upon fiduciary duty and the public trust. The statute provides that such disclosure will be a defense for the local official in any civil or criminal action, or against “any sanction.” Note that this defense is for the individual; it does not protect the official action tainted by a conflict from being voided, if otherwise voidable.

⁴⁰ C.R.S. § 31-4-404(2).

⁴¹ C.R.S. § 31-4-404(3).

⁴² C.R.S. § 18-8-308.

Proper disclosure requires the disclosure to be in writing and delivered to the Secretary of State. Disclosure should include the following elements:

- amount of financial interest, if any;
- purpose and duration of services rendered, if any;
- compensation received for services; or
- “such other information as is necessary to describe” the interest.

If the act is then performed, the official or employee shall state for the record the fact and nature of the interest involved.

Amendment 41

At the statewide general election in November 2006, the voters of Colorado adopted Amendment 41, which added a new Article (XXIX) to the state Constitution. The amendment’s language, which is couched in very broad terms, limits receipt of gifts exceeding \$50 (subject to inflation; the 2018 amount is \$59)⁴³ from any particular donor in a given year by municipal employees and officials, among others. This broad language has spawned efforts within the legislature and the courts to define the practical reach of Amendment 41.

Amendment 41 provides for creation of an Independent Ethics Commission (IEC) and empowers the IEC to issue “advisory opinions” on ethics issues arising under the Amendment. The Commission has provided guidance on gifts that would not qualify as having substantial value, including:

- Unsolicited gifts of trivial value;
- Gifts valued less than \$59 (and not given by a lobbyist);
- Gifts from relatives and friends for special occasions;
- Inheritances;
- Expense reimbursements;
- Campaign contributions;
- Scholarships;
- Honoraria for public speaking engagements; and
- Prizes, raffles, lotteries, etc.

The IEC’s position statement clarifying acceptable gifts is available on the its website at www.colorado.gov/pacific/sites/default/files/PositionStatement_08-01_IEC.pdf.

As a reminder, the guidelines presented here are those declared by the IEC; your municipality may have local regulations prohibiting certain gifts for board and commission members.

⁴³ The gift limit was originally \$50, adjusted every four years for inflation and is \$59 as of the date of this publication. However, \$53 is the amount listed in the implementing statute because it has not yet been updated. See Colorado Independent Ethics Commission, Ethics Handbook (2016), www.colorado.gov/pacific/sites/default/files/IEC_Ethics_Handbook_2016.pdf.

Other issues and considerations regarding ethics

In addition to legal requirements, a number of other laws, principles, and related issues involve ethics for municipal officials.

Nonbinding ethical “principles” in the Colorado State Statutes

Colorado statute⁴⁴ provides “ethical principles” that are intended to provide supplemental guidance for ethical behavior. The statute provides:

The principles in this section are intended as guides to conduct and do not constitute violations as such of the public trust of office or employment in state or local government.

A public officer, a local government official, or an employee should not acquire or hold an interest in any business or undertaking which he has reason to believe may be directly and substantially affected to its economic benefit by official action to be taken by an agency over which he has substantive authority.

A public officer, a local government official, or an employee should not, within six months following the termination of his office or employment, obtain employment in which he will take direct advantage, unavailable to others, of matters with which he was directly involved during his term of employment. These matters include rules, other than rules of general application, which he actively helped to formulate, and applications, claims, or contested cases in the consideration of which he was an active participant.

A public officer, a local government official, or an employee should not perform an official act directly and substantially affecting a business or other undertaking to its economic detriment when he has a substantial financial interest in a competing firm or undertaking.

Nepotism and cronyism

Nepotism is commonly defined as “favoritism (as in appointment to a job) based on kinship.” Cronyism is “partiality to cronies especially as evidenced in the appointment of political hangers-on to office without regard to their qualifications.”

While neither cronyism nor nepotism is specifically prohibited by Colorado law, some local governments in Colorado have taken the initiative to pass their own anti-nepotism ordinances. However, even absent express prohibitions on cronyism or nepotism, municipal officials should be aware that there may be times when disclosure and abstention from voting on matters that directly concern their relations, close friends, or financial or political supporters may be desirable.

Board and commission members at times excuse themselves from votes regarding these matters to avoid the potential appearance of impropriety. If a situation like this arises, consult with your municipal attorney.

⁴⁴ C.R.S. § 24-18-105.

Expectations of your community

It is important to note that laws are limited in their ability to provide guidance for every situation you encounter. While an action may be legal, it may not necessarily be ethical or viewed by the public as ethical behavior. As many popular references suggest, laws should be regarded as a floor for ethical behavior, not a ceiling. The public may not be aware of all the laws that apply to your position as a public official; nonetheless they will have expectations of your behavior and will hold you to a high standard—regardless of the law.

What the public expects from public officials:

- honesty;
- decisions that put the community first, rather than the interests of the individual public official;
- an open, impartial and fair decision-making process;
- respect for individual rights and community rights;
- accountability;
- forthrightness;
- decorum and professionalism; and
- personal character and lawful personal behavior.

Sticky situations – Questions to ask

Unfortunately, not all of our questions involving ethics are black and white or addressed clearly in the laws. When you are faced with a difficult ethical question, it may be helpful to ask yourself the following questions:

1. *What does the law require in this situation?*
The law should be considered a minimum standard for ethical conduct. It can and should be a starting point for your decisions.
2. *What does our own municipal ethics code require in this situation?*
If your city or town has a locally adopted ethics code, make sure you understand it and apply it to your decisions. Like state laws, local ethics codes always should be considered a floor for your decisions, not a ceiling.
3. *Is this a right vs. wrong situation? Is the issue simply that doing the “right” thing involves significant personal cost?*
Remember, your responsibility is to do the right thing for your community, regardless of personal cost. Ethics and the associated legal requirements are written to avoid improper conduct, not to serve as an excuse for avoiding politically difficult decisions.
4. *Would I be embarrassed to read about my actions in the local newspaper?*
This is a simple “self-test,” but can be very useful in clarifying a sticky situation!

5. *Which decision will build or preserve the most public confidence in our municipality and the leadership of this governing body?*

The public expects you to base your conduct on the highest standards — even the appearance or perception of unethical behavior can test the public's confidence in your leadership.

6. *Which decision is most consistent with my values?*

Is it fair? Compassionate? Respectful of all parties involved? Am I keeping my word?

7. *Does this decision represent the interests of everyone in my community? Are there other stakeholders or members of the public who should be heard before this decision is made?*

Keeping your procedures open and accessible to the public not only ensures that everyone has an opportunity to be heard, but also that you make the best decisions for your community.

8. *Does this decision involve conflicting values? If so, what are the facts? Is there a decision that best reflects my responsibility to the community as a whole? Does this decision do more good than harm? Is there something we can do to make this decision more fair and equitable?*

Sometimes, no matter what you do, there will be someone in your community who disagrees with your decision. However, if you have carefully thought through all of these considerations, you can be assured that you have done everything possible to ensure a fair — and ethical — decision.

QUASI-JUDICIAL DECISIONS AND *EX PARTE* CONTACT

A quasi-judicial decision occurs when a non-judicial body interprets the law to make a decision. Boards and commissions do not always make quasi-judicial decisions, but in certain circumstances they may. Quasi-judicial decisions involve the implementation of a previously adopted policy, rather than the declaration of new policy. When a board acts as a quasi-judicial body, it is important for the board's members to avoid *ex parte* contact.

What is an *ex parte* contact?

Broadly defined, an *ex parte* contact is any written or verbal communication initiated outside of a regularly noticed public hearing between an official with decision-making authority and one or more of the parties, but not all of the parties, concerning a particular subject matter that is under, or that is about to become under, consideration by that official, and that seeks either to influence, or present information relating to, that matter which is the subject of the decision. The term is usually used in a courtroom context: the judge cannot discuss a case with either party or their attorney without the other party and the attorney being present. The term is equally applicable to any quasi-judicial matter pending before a local governmental body; including a board or commission with quasi-judicial authority. An *ex parte* contact includes discussing an upcoming hearing or decision with the applicant or the party protesting the application.

Why are *ex parte* contacts before making a quasi-judicial decision improper?

- All parties are entitled to have the matter heard by an impartial person or body. At the very least, *ex parte* contacts, whether the contacting person is an applicant or a protestant, call into question the impartiality of the decision maker.
- Every quasi-judicial decision must be supported by findings of fact, and the findings of fact must be based solely upon the evidence as it appears in the record of the proceeding. The record of the proceedings consists only of matters presented at the hearing, not anything presented before or after the hearing. Therefore, to have a defensible record, only evidence presented during the hearing, on the record of the hearing, may be relied upon in reaching the body's decision.
- In some instances, the parties have the right of cross-examination of the opposing side. They cannot cross-examine an *ex parte* contact.
- In the event one party challenges the final decision, you can be sure any *ex parte* communications will be included as one of the grounds for reversing the decision.

What do I do if someone attempts to contact me before a hearing?

- Stop the person. If it is a verbal contact, advise the person that you are sitting as a judge in the matter and you cannot listen to or review anything about the issue prior to the hearing.

- Disclose the contact. At the next public meeting or prior to the hearing on the public record, advise the remaining members of the board and the parties regarding the contact, your response, and whether or not you think you can make an impartial decision based on the evidence presented at the hearing despite the contact.
- Consider whether the *ex parte* contact requires abstention. An *ex parte* contact, by itself, is usually not enough to reverse the final decision or require you to abstain from voting on the issue. Each individual contact must be reviewed to determine whether it affects your impartiality or ability to consider the matter fairly, whether it creates an appearance of impropriety, whether it creates a conflict such that you cannot participate in the decision-making process, or whether it otherwise affects the rights of the parties seeking the decision to “fundamental fairness” or due process in the decision-making proceedings.
- Consider adopting formal procedures. It is difficult to tell a neighbor or a constituent that you cannot talk to them about an issue that may be very important to them. Very often constituents are unable to understand why they cannot speak about particular issues to those that have been elected or appointed to represent those constituents. It may help to have specific procedures that the governing body or the planning commission has adopted that you can point to as the reason you cannot handle a quasi-judicial issue in the same manner as you do other legislative or administrative issues. This will also help to make sure all board members handle *ex parte* contacts in the same manner.

At the very least, *ex parte* contact can give the appearance of impropriety. At worst, *ex parte* contact may be grounds for reversal of a decision, a lawsuit, charges of undue influence or coercion, or bribery.

SOME FINAL GUIDEPOSTS

Municipal government is a team operation.

There are many sources of information about municipal government available to members of boards and commissions. The publications, information, and services of the Colorado Municipal League, meetings, institutes and conferences for municipal officials, and journals of the various professional associations of municipal officers and employees all provide basic information about the many problems and activities of municipal government.

In addition, there are specialists and professional consultants who can help with technical problems. Remember, however, that these persons are advisers and that the policy decisions should be left to the board or commission member.

No state law, handbook or any other guide can adequately outline the board or commission member's role in the governmental process. Yet, members of boards and commissions have a real responsibility to the citizens. Members of boards and commissions are the trustees and custodians of the privilege of local self-government in this country, and the individual member, regardless of the size of the municipality, is engaged in the vital process of making American democracy work.

Resources

Acknowledgements

Many thanks to the City of Commerce City and the City of Fort Collins for providing their Boards and Commissions Manuals as sources of information for this handbook. CML also thanks former Aurora Deputy City Clerk Karen Goldman for her valuable feedback and edits.

Related CML publications

Colorado Municipal Government: An Introduction

Open Meetings, Open Records

Ethics Handbook

Handbook for Municipal Elected Officials

Municipal Candidates Guide

Public Officials Liability Handbook

Visit www.cml.org to learn more or to order.

ROBERTS RULES CHEAT SHEET

| To: | You say: | Interrupt Speaker | Second Needed | Debatable | Amendable | Vote Needed |
|--|--|-------------------|---------------|-----------|-----------|---------------|
| Adjourn | "I move that we adjourn" | No | Yes | No | No | Majority |
| Recess | "I move that we recess until..." | No | Yes | No | Yes | Majority |
| Complain about noise, room temp., etc. | "Point of privilege" | Yes | No | No | No | Chair Decides |
| Suspend further consideration of something | "I move that we table it" | No | Yes | No | No | Majority |
| End debate | "I move the previous question" | No | Yes | No | No | 2/3 |
| Postpone consideration of something | "I move we postpone this matter until..." | No | Yes | Yes | Yes | Majority |
| Amend a motion | "I move that this motion be amended by..." | No | Yes | Yes | Yes | Majority |
| Introduce business (a primary motion) | "I move that..." | No | Yes | Yes | Yes | Majority |

The above listed motions and points are listed in established order of precedence. When any one of them is pending, you may not introduce another that is listed below, but you may introduce another that is listed above it.

| To: | You say: | Interrupt Speaker | Second Needed | Debatable | Amendable | Vote Needed |
|--|---|--------------------------------|---------------|---------------------------------------|-----------|-----------------------------|
| Object to procedure or personal affront | "Point of order" | Yes | No | No | No | Chair decides |
| Request information | "Point of information" | Yes | No | No | No | None |
| Ask for vote by actual count to verify voice vote | "I call for a division of the house" | Must be done before new motion | No | No | No | None unless someone objects |
| Object to considering some undiplomatic or improper matter | "I object to consideration of this question" | Yes | No | No | No | 2/3 |
| Take up matter previously tabled | "I move we take from the table..." | Yes | Yes | No | No | Majority |
| Reconsider something already disposed of | "I move we now (or later) reconsider our action relative to..." | Yes | Yes | Only if original motion was debatable | No | Majority |
| Consider something out of its scheduled order | "I move we suspend the rules and consider..." | No | Yes | No | No | 2/3 |
| Vote on a ruling by the Chair | "I appeal the Chair's decision" | Yes | Yes | Yes | No | Majority |

The motions, points and proposals listed above have no established order of preference; any of them may be introduced at any time except when meeting is considering one of the top three matters listed from the first chart (Motion to Adjourn, Recess or Point of Privilege).

PROCEDURE FOR HANDLING A MAIN MOTION

NOTE: Nothing goes to discussion without a motion being on the floor.

Obtaining and assigning the floor

A member raises hand when no one else has the floor

- The chair recognizes the member by name

How the Motion is Brought Before the Assembly

- The member makes the motion: *I move that (or "to") ...* and resumes his seat.
- Another member seconds the motion: *I second the motion* or *I second it* or *second*.
- The chair states the motion: *It is moved and seconded that ... Are you ready for the question?*

Consideration of the Motion

1. Members can debate the motion.
2. Before speaking in debate, members obtain the floor.
3. The maker of the motion has first right to the floor if he claims it properly
4. Debate must be confined to the merits of the motion.
5. Debate can be closed only by order of the assembly (2/3 vote) or by the chair if no one seeks the floor for further debate.

The chair puts the motion to a vote

1. The chair asks: *Are you ready for the question?* If no one rises to claim the floor, the chair proceeds to take the vote.
2. The chair says: *The question is on the adoption of the motion that ... As many as are in favor, say 'Aye'.* (Pause for response.) *Those opposed, say 'Nay'.* (Pause for response.) *Those abstained please say 'Aye'.*

The chair announces the result of the vote.

1. *The ayes have it, the motion carries, and ...* (indicating the effect of the vote) or
2. *The nays have it and the motion fails*

WHEN DEBATING YOUR MOTIONS

1. Listen to the other side
2. Focus on issues, not personalities
3. Avoid questioning motives
4. Be polite

HOW TO ACCOMPLISH WHAT YOU WANT TO DO IN MEETINGS

MAIN MOTION

You want to propose a new idea or action for the group.

- After recognition, make a main motion.
- Member: "Madame Chairman, I move that _____."

AMENDING A MOTION

You want to change some of the wording that is being discussed.

- After recognition, "Madame Chairman, I move that the motion be amended by adding the following words _____."
- After recognition, "Madame Chairman, I move that the motion be amended by striking out the following words _____."
- After recognition, "Madame Chairman, I move that the motion be amended by striking out the following words, _____, and adding in their place the following words _____."

REFER TO A COMMITTEE

You feel that an idea or proposal being discussed needs more study and investigation.

- After recognition, "Madame Chairman, I move that the question be referred to a committee made up of members Smith, Jones and Brown."

POSTPONE DEFINITELY

You want the membership to have more time to consider the question under discussion and you want to postpone it to a definite time or day, and have it come up for further consideration.

- After recognition, "Madame Chairman, I move to postpone the question until _____."

PREVIOUS QUESTION

You think discussion has gone on for too long and you want to stop discussion and vote.

- After recognition, "Madam President, I move the previous question."

LIMIT DEBATE

You think discussion is getting long, but you want to give a reasonable length of time for consideration of the question.

- After recognition, "Madam President, I move to limit discussion to two minutes per speaker."

POSTPONE INDEFINITELY

You want to kill a motion that is being discussed.

- After recognition, "Madam Moderator, I move to postpone the question indefinitely."

POSTPONE INDEFINITELY

You are against a motion just proposed and want to learn who is for and who is against the motion.

- After recognition, "Madame President, I move to postpone the motion indefinitely."

RECESS

You want to take a break for a while.

- After recognition, "Madame Moderator, I move to recess for ten minutes."

ADJOURNMENT

You want the meeting to end.

- After recognition, "Madame Chairman, I move to adjourn."

PERMISSION TO WITHDRAW A MOTION

You have made a motion and after discussion, are sorry you made it.

- After recognition, "Madam President, I ask permission to withdraw my motion."

CALL FOR ORDERS OF THE DAY

At the beginning of the meeting, the agenda was adopted. The chairman is not following the order of the approved agenda.

- Without recognition, "Call for orders of the day."

SUSPENDING THE RULES

The agenda has been approved and as the meeting progressed, it became obvious that an item you are interested in will not come up before adjournment.

- After recognition, "Madam Chairman, I move to suspend the rules and move item 5 to position 2."

POINT OF PERSONAL PRIVILEGE

The noise outside the meeting has become so great that you are having trouble hearing.

- Without recognition, "Point of personal privilege."
- Chairman: "State your point."
- Member: "There is too much noise, I can't hear."

COMMITTEE OF THE WHOLE

You are going to propose a question that is likely to be controversial and you feel that some of the members will try to kill it by various maneuvers. Also you want to keep out visitors and the press.

- After recognition, "Madame Chairman, I move that we go into a committee of the whole."

POINT OF ORDER

It is obvious that the meeting is not following proper rules.

- Without recognition, "I rise to a point of order," or "Point of order."

POINT OF INFORMATION

You are wondering about some of the facts under discussion, such as the balance in the treasury when expenditures are being discussed.

- Without recognition, "Point of information."

POINT OF PARLIAMENTARY INQUIRY

You are confused about some of the parliamentary rules.

- Without recognition, "Point of parliamentary inquiry."

APPEAL FROM THE DECISION OF THE CHAIR

Without recognition, "I appeal from the decision of the chair."

Rule Classification and Requirements

| Class of Rule | Requirements to Adopt | Requirements to Suspend |
|---------------------------------|---|--|
| Charter | Adopted by majority vote or as proved by law or governing authority | Cannot be suspended |
| Bylaws | Adopted by membership | Cannot be suspended |
| Special Rules of Order | Previous notice & 2/3 vote, or a majority of entire membership | 2/3 Vote |
| Standing Rules | Majority vote | Can be suspended for session by majority vote during a meeting |
| Modified Roberts Rules of Order | Adopted in bylaws | 2/3 vote |

the COMMISSIONER

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Other Sources of Information

Below are lists of websites and publications that provide additional information on the proper functioning of the planning commission.

Fairfax County, Virginia

Planning Commission Meetings and Procedures

www.co.fairfax.va.us/gov/planning/procedure.htm

This is a description for the general public of the planning commission's procedures for conducting public meetings.

City of Santa Clara, California

cho.ci.santa-clara.ca.us40685.html

Similar to the site above, this provides the public with complete information on planning commission meetings, actions, and procedures.

Snohomish County, Washington

www.co.snohomish.wa.us/pds/903-PlanComm/MeetingRules.asp

Public Hearing Procedures outline the planning commission hearing process for the public.

Mastering Meeting Management

CD-ROM, 60 minutes, 2002; includes reading materials

The ABCs of managing a planning commission meeting illuminated by a meeting management consultant, a planning commissioner, and a planning director. Contact Planners Book Service at 312-786-6344 or www.planning.org.

Meeting Management

video, 90 minutes, 1994; includes workbook

This mock commission hearing recorded on video is accompanied by a workbook written by Michael Chandler. Contact Planners Book Service at 312-786-6344 or www.planning.org.

Rules of Procedure for Planning Commissions

By Stephen Sizemore, AICP

Planning commissions play a variety of roles for the community. Sorting out these roles and their responsibilities can be very challenging. Although planning commissions across the country play a similar role in the development of planning policy, how they are constituted within the local decision-making system varies. Some planning commissions are purely advisory and others have quasi-judicial roles. Planning commissioners themselves are most often voluntary officials and the

demands on their time and talents can be considerable.

Rules of procedure are one means of making the planning commissioner's job easier. Many commissions have adopted rules of procedure for themselves. They find them to be a useful way of clarifying their roles, orienting new members, and providing a set of guidelines to refer to in complicated situations. It may also be helpful to supplement formal rules of procedure with summary information about the commission's duties and ethical

(continued on page 2)



Planning commissioners are most often voluntary officials and the demands on their time and talents can be considerable. . . . Rules of procedure are one means of making their job easier.

Rules of Procedure

(continued from page 1)

responsibilities, as well as with outlines of the considerations and legal issues typically involved in the commission's most common proceedings.

In 1996 the Wake County (N.C.) Planning Board asked its staff to develop new, more detailed rules of procedure. The resulting procedural rules not only link the board's work to North Carolina law, but also emphasize the all-important role of the board as a policy making body.

The rules of procedure were formatted as part of a handbook and placed on the county's website. The

Chapter 1.D: Responsibilities

To Serve the Public Interest

In reconstituting the Planning Board, the Board of Commissioners defined the Planning Board's purpose as guiding and accomplishing a coordinated and harmonious development of the county that will, in accord with present and future needs, best and most efficiently promote the public health, safety, and general welfare. Appointment to the Planning Board, therefore, represents a public trust, giving a board member a responsibility to care for the general welfare of the county and an opportunity to help in shaping the present and future quality of life in Wake County.

retain an open mind to all viewpoints. They should not act as delegates of the particular municipalities, neighborhoods, occupations, interest groups, or socio-economic groups of which they are a part.

Furthermore, the Planning Board often serves as a public forum for citizen participation and discussion of planning issues important to the community. At such times, the Board should attempt to draw out and clarify the positions of people on all sides of the issue, and to identify the relationship of such positions to the public interest.

To Acquire Adequate Information and Knowledge

Each Planning Board member has the responsibility to acquire whatever information and knowledge is necessary to fully understand and make wise decisions and recommendations in the interest of the County. To this end, a Board member is expected to depend on both his or her own personal background, experience, expertise, and familiarity with the County (especially that part of the County in which he or she resides), as well as the expertise and knowledge of, and information available to, County staff members.

Board members are expected to have a full understanding of the County's Land Use Plan and other adopted County policies concerning development. They are expected to be familiar with the general scope, applicability, and organization of the County's zoning and subdivision regulations and review procedures. And they are expected to have a thorough knowledge and understanding of those policies, regulations, and procedures most applicable to the Board's administrative responsibilities (particularly those concerning the review of preliminary subdivision plans and requests for hardship variances from Subdivision Ordinance standards).

Members are encouraged to expand their knowledge and understanding of planning issues through such means as attending planning workshops and conferences and reading planning-related literature. Board members may join the American Planning Association, which offers a number of workshops and conferences and provides the monthly *Planning* magazine. And Board members may review books, periodicals, and other documents located in the Planning Department's small reference library.

Members are also encouraged to improve their understanding of current applications and issues by discussing them individually with the relevant staff

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Appendix 2A Outline of Planning Board Agenda

Chapter 3: Typical Planning Board Proceedings

- A. Zoning Ordinance Amendments (see excerpt below)
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Appendix 3A Checklist of Applicable Standards:

Applications for Preliminary Subdivision Plan Approval

Internet makes public access to this information easy and accessible. (Visit www.wakegov.com/county/zoning/, click on Boards, then Agendas and Minutes, then General.)

This article provides the complete table of contents for the online handbook as well as excerpts from that handbook that may be relevant to planning commissioners in other jurisdictions.

Each board member's primary responsibility is to represent the best interests of the county as a whole. Board members are therefore expected to keep consideration of the general public interest foremost during their deliberations. They should consider the interests of particular individuals or groups only in the context of their relationship to the general public interest. Board members are also expected to

members, either over the phone or in person. (But Board members should generally avoid contacting applicants and other interested parties outside of meetings—see L. in the Rules of Procedure.)

At Board meetings, members have the responsibility to insist that they are provided (by an applicant, interested party, or the staff) information of sufficient scope and depth to allow them to fully understand the issues before the Board and the alternative actions available to the Board. If the application, staff report, and other documents submitted to the Board regarding a particular item are insufficient to enable a Board member to fully understand the issues immediately before the Board, that Board member has the responsibility to ask questions of, or request additional information from, the applicant, other interested parties, and the staff (as appropriate) to acquire the necessary understanding.

To Be Fair

The Board also has the responsibility to ensure that its decision-making process is fair. This means that persons likely to be interested in a particular subject coming before the Board must be provided adequate and timely notice of the meeting at which the Board will review the subject, an opportunity to attend that meeting and present views and information concerning the subject, and an opportunity to know the information and considerations on which the Board bases its action concerning the subject.

Fairness also requires that Board members avoid any bias or the appearance of any conflict of interest in their decisions, that the Board act in a timely manner, that the Board keep full and accurate records of its proceedings, and that the Board establish and make available the ground rules under which it conducts business. (The next Chapter, "Planning Board Rules of Procedure," sets forth such rules.)

To Make Rational Decisions

The Planning Board has the responsibility to ensure that the decision-making process it applies to any issue before it is not only rational, but is also perceived as rational. This means the Board's decision should consist of conclusions that are based on findings related to the standards, policies, and considerations applicable to the particular type of decision. Furthermore, such findings should be supported by information available to the Board—that is, information contained in an application, staff report, or other document submitted to the

Board, or included in any testimony presented before the Board, or explicitly stated by a Board member from his or her personal observations, knowledge, or experience. Although this responsibility is important to all Planning Board decisions, it is an important legal requirement with administrative decisions concerning preliminary subdivision plans and quasi-judicial decisions concerning requests for hardship variances from Subdivision Ordinance standards.

To Take a Broad Perspective

Board members have the responsibility to recognize the comprehensive and long-range nature of many of the Board's decisions. They must consider, as well as balance and integrate, not only the many physical aspects of the issue being decided, but often also its economic and social aspects. They must consider not only the decision's immediate impacts on those persons most affected, but also its future and secondary impacts on the County as a whole. The Board should thus explicitly evaluate all facts, alternatives, means, and consequences relevant to its decisions.

As the County's body of elected officials, the Board of Commissioners are principally occupied with resolving pressing current problems that usually demand immediate action and that often involve the need to balance competing interests. The Commissioners, therefore, rely on the Planning Board to give them advice that reflects a broader and longer-range viewpoint than that demanded of them.

Chapter 2.G: Meeting Agenda Preparation of the Agenda

The agenda of a Board meeting serves two important functions: it focuses Board deliberations by determining what matters will be considered at the meeting, when each matter will be considered, and the context in which each matter will be considered; and it serves as the public's only guide to what will be considered at the meeting, how will the matter be dealt with, who will participate in the discussion, and when may public comment be made. The agenda should be prepared so as to best achieve these functions.

Order and Form of the Agenda

The agenda shall generally organize matters to be addressed at the meeting so as to best promote opportunities for effective public input and the timely and efficient performance of Board responsibilities. Items of business likely to attract the attendance of many

interested persons (such as those involving notice to adjoining property owners and those involving other public notice) should generally be placed early on the agenda, thereby minimizing the time those persons must wait for consideration of the item that brought them to the meeting. The agenda should identify (by name and/or role) the leading participants at each step of the Board's review and indicate the step at which interested persons will have the opportunity to comment on the item.

Chapter 2.K: Conflicts of Interest

To preserve public confidence in the integrity of the Planning Board and the County's governmental process, each Board member shall have the duty to avoid even the appearance of a conflict of interest. A Board member, therefore, shall ask the Chair to be excused from participation in any matter before the Board in which the member's impartiality might reasonably be questioned, including, but not limited to, instances where:

- a. The Board member has a personal bias or prejudice concerning any interested party, or representative of a party, to a matter before the Board; or
- b. The Board member has a close personal or financial relationship with any party or party representative; or
- c. The Board member, or a member of the member's household, has a personal or financial interest that may be substantially affected (directly or indirectly) by the Board's action on the matter.

If any other person questions the impartiality of a Board member before or during the Board's consideration of a matter, the Chair shall treat this as a request that the member be excused from participation. Any request that a Board member be excused from participation must disclose the basis for the request.

On concurring that an actual or apparent conflict of interest exists, the Chair shall excuse the member from participation in the matter. On finding that an actual or apparent conflict of interest does not exist, the Chair shall refuse the request and allow the member to fully participate in the matter. No actual or apparent conflict of interest shall be deemed to exist where the matter would similarly affect all citizens of Wake County (as generally with consideration of county-wide policies and regulations), or where the Board member's bias,

prejudice, relationship, or interest is so insignificant or so remote that it is unlikely to affect the member's actions in any way.

If excused from participation in a matter, a Board member may not sit with the Board during its consideration of the matter, and may not vote on, discuss, advocate, influence, or otherwise take part in the Board's consideration of the matter, either in public or in private.

Chapter 2.L: Outside Communications

To preserve public confidence in the fairness of Planning Board deliberations and decisions, the Board should ensure that the public and interested parties have the opportunity to know, and respond to, all information the Board considers in making its decisions. The Board should also ensure that each Board member has the opportunity to know and consider the information available to other Board members.

When considering issues involving administrative determinations (such as a preliminary subdivision plan), or quasi-judicial determinations (such as a request for a hardship variance from Subdivision Ordinance standards), the Board deals with parties who are directly affected by the Board's decision (such as the applicant and neighbors of the proposed subdivision or variance site). Each of these interested parties needs the assurance that other interested parties will not have unfair advantage in presenting their version of the relevant facts or concerns to the Board. In such cases, therefore, Board members shall avoid communicating with applicants or other interested parties about the proposal except at the Board meetings at which the proposal is being considered. If a Board member receives unsolicited communications about such a proposal outside of a Board meeting, the member has the duty to reveal the communications during the Board's consideration of the proposal. This ensures that the communicated information will become part of the record and that other Board members and interested parties will have an opportunity to consider and refute the information.

When the Board considers issues pertaining to the County as a whole or principally to the general public interest (such as the Comprehensive Plan, the Land Use Plan, ordinance text amendments, and comprehensive rezonings), it often finds access to a broad range of public input helpful in making a decision on the issue. In such

cases, therefore, Board members may communicate with interested persons outside of the meetings at which the issue is being considered, but each member has the duty to reveal the general nature and scope of relevant information and opinions gleaned from such communications during the Board's consideration of the issue. To ensure that each Board member's decision is based on the full range of information and public opinion available to the Board, members should avoid committing themselves to a position on the issue during any outside communications.

When the Board considers rezoning petitions, it is considering a legislative determination, but one that generally pertains to a specific parcel of land, and thus directly affects the interests of specific parties. Because rezonings are legislative determinations, and the Planning Board's role is only advisory, Board members are not required to avoid outside communication about a rezoning proposal. To further foster the appearance of fairness in their deliberations, however, Board members are encouraged to do so.

Chapter 3.A: Zoning Ordinance Amendments Legal Considerations

Because amendments to the Zoning Ordinance are considered legislative actions (as opposed to administrative or quasi-judicial actions), the Board has broad discretion in reviewing proposed amendments. This discretion is, however, subject to important constitutional limitations.

First, the County must have the authority to regulate in the manner proposed in the amendment. Local governments in North Carolina have no inherent powers, but are limited to those granted by the State constitution or enabling legislation. Most of the legislation authorizing county zoning regulations is set forth in Chapter 153A of the North Carolina General Statutes.

Second, the amendment must result in a regulation or rezoning decision that is sufficiently clear and precise to allow its administrative application and to give an individual exercising ordinary common sense a reasonable opportunity to comply with it. This means that text amendments regulating an activity must contain explicit standards or criteria that are capable of being clearly and precisely interpreted and applied in accord with commonly understood meanings and practices within the law of zoning.

Third, the amendment must result in a regulation that advances a legitimate

governmental purpose. This means that the regulation or rezoning must serve a clear purpose that is described in the State enabling legislation, that is described in the County's Land Use Plan, or that protects or advances the public health, safety, and general welfare. It also means that there must be an evident link between the regulation or rezoning and the public purpose(s) it serves. The purpose of a regulation may be described in the regulation itself, in the ordinance by which it is adopted (usually as a "Whereas . . ." statement), in reports and memoranda on the proposed regulation, or in a comprehensive plan.

Fourth, the amendment must not result in the "taking" of private property without compensation. This means that the regulation or rezoning must leave owners of property to which it is applied one or more uses that are economically viable. (It does not mean the regulation or rezoning may not result in a reduction in a property's value.)


Fifth, the County must follow established procedures when reviewing, holding a hearing on, and deciding an amendment petition. This means that the Planning Board's review of an amendment petition must comply with all applicable procedures set forth in the applicable ordinance and in the Board's Rules of Procedure (particularly those requiring the Board to base its recommendations on express conclusions as to whether the amendment is consistent with the Land Use Plan and otherwise advances the public health, safety, and general welfare).

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CODE OF CONDUCT FOR ELECTED OFFICIALS

Town of Johnstown Code of Conduct for Elected Officials

The Three Rs of Johnstown Government Leadership: Roles, Responsibilities and Respect

State law and Article I of Chapter 2 of the Johnstown Municipal Code provide detailed information on the roles and responsibilities of Board members, the Mayor Pro-Tem, and the Mayor. The Town's Code of Ethics provides guidance on ethical issues and questions of right and wrong. Until now, what has not been clearly written down is a Code of Conduct for Johnstown's elected officials.

This Code of Conduct is designed to describe the manner in which Board members should treat one another, Town staff, constituents, and others they come into contact with in representing the Town of Johnstown. It reflects the work of the Town Board and defines more clearly the behavior, manners, and courtesies that are suitable for various occasions. It also provides clarifications designed to make public meetings and the process of governance run more smoothly.

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| The contents of this Code of Conduct includes: | Pages |
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The constant and consistent theme through all of the conduct guidelines is "respect." Board members experience stress in making decisions that impact the lives of the citizens. At times, the impacts of the entire community must be weighed against the impact of only a few. Despite these pressures, elected officials are called upon to exhibit appropriate behavior at all times. Demonstrating respect for each individual through words and actions is the touchstone that can help guide Board members to do the right thing in even the most difficult situations.

Overview of Roles & Responsibilities

Other resources that are helpful in defining the roles and responsibilities of elected officials can be found in the Johnstown Municipal Code and in the Handbook for Municipal Elected Officials, published by the Colorado Municipal League.

MAYOR

- Recognized as head of the Town Government for all ceremonial purposes
- Presides over meetings of the Town Board
- Has same speaking and voting rights as any other member
- Executes and authenticates legal instruments requiring signature
- Leads the Town Board into an effective, cohesive working team

MAYOR PRO-TEM

- Elected by the Town Board at the first meeting following the election
- Performs the duties of the Mayor if the Mayor is absent or disabled

ALL BOARD MEMBERS

All members of the Town Board, including the Mayor and Mayor Pro-Tem, have equal votes. No Trustee has more power than any other Board member, and all should be treated with equal respect.

All Board members should:

- Fully participate in Town Board meetings and other public forums while demonstrating respect, kindness, consideration, and courtesy to others.
- Prepare in advance of meetings and be familiar with issues on the agenda.
- Represent the Town at ceremonial functions at the request of the Mayor
- Be respectful of other people's time. Stay focused and act efficiently during public meetings.
- Serve as a model of leadership and civility to the community.
- Inspire public confidence in Town government.
- Provide contact information with the Town Administrator or Town Clerk in case of an emergency or an urgent situation arises while the Board member is out of town.
- Demonstrate honesty and integrity in every action and statement.
- Participate in scheduled activities.

Policies & Protocol Related To Conduct

Ceremonial Events: Town staff will handle requests for a Town representative at ceremonial events. The Mayor will serve as the designated Town representative. If the Mayor is unavailable, then Town staff will determine if event organizers would like another representative from the Board. If yes, then the Mayor Pro-Tem will be recommended to serve as the substitute. Invitations received at Town Hall are presumed to be for official Town representation. Invitations addressed to Board members at their homes are presumed to be for unofficial, personal consideration.

Correspondence Signatures: Board members do not need to acknowledge the receipt of correspondence, or copies of correspondence, during Board meetings. Town staff will prepare official letters in response to public inquiries and concerns. These letters will carry the signature of the Mayor or the appropriate Town staff. Anonymous letters will not be accepted nor acknowledged by either the Board or staff.

If correspondence is addressed only to one Board member, that correspondence will be shared with the rest of the Board.

Endorsement of Candidates: Board members have the right to endorse candidates for all Board of Trustee seats or other elected offices. It is inappropriate to mention endorsements during Board meetings or other official Town meetings or functions.

Intergovernmental Relations: The Board values intergovernmental relations with neighboring communities and other entities. As a result, Board members should make a concerted effort to attend scheduled meetings with other entities to further promote intergovernmental relations.

Legislative Process: The Town generally follows Roberts Rules of Order for meeting management.

Public Meeting Hearing Protocol: The Mayor will open the public hearing. Staff will make the initial presentation. The applicant or appellant shall have the right to speak first. The Mayor will determine the length of time allowed for this presentation. Speakers representing pro points of view will be allowed to follow. Speakers representing opposing points of view will then follow. The Mayor will determine how much time will be allowed for each speaker, with three (3) to five (5) minutes the standard time granted. The Mayor will then ask the Board if any issues need clarification before the public hearing is closed. The Mayor has the responsibility to run an efficient public meeting and has the discretion to modify the public hearing process in order to make the meeting run smoothly.

Board members will not express opinions during the public hearing portion of the meeting except to ask pertinent questions of the speaker or staff. "I think" and "I feel" comments by Board members are not appropriate until after the close of the public hearing. Board members should refrain from arguing or debating with the public during a public hearing and shall always show respect for different points of view.

Main motions may be followed by amendments. Any Board member can call for a point of order. Only Board members who voted on the prevailing side may make motions to reconsider.

Travel Expenses: The purpose of this regulation is to establish the policies and procedures for Board members who travel on official Town business either in state or out-of-state. Such travel shall include attendance at conferences, seminars, and training sessions on behalf of the Town. The Town shall pay reasonable expenses for registration fees, lodging, meals, transportation, and all allowable miscellaneous expenses.

Travel at vendor's expense is prohibited for Board members as the possibility exists for the trip to be misconstrued as a gratuity or that favoritism will be shown to a particular vendor in future award of contracts.

The expense of attending Town related functions shall be limited to individual Board member attendance only and shall be evaluated in terms of alternative methods and consequences of failing to attend. If others attend such functions with a Board member, such as a family member, their expense shall be the responsibility of the Board member.

Board members shall follow the same rules and regulations required of Town employees for travel expenses.

Board Member Conduct with One Another

Boards are composed of individuals with a wide variety of backgrounds, personalities, values, opinions, and goals. Despite this diversity, all have chosen to serve in public office in order to preserve and protect the present and the future of the community. In all cases, this common goal should be acknowledged even as the Board may "agree to disagree" on contentious issues.

IN PUBLIC MEETINGS

Practice civility, professionalism and decorum in discussions and debate. Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of a free democracy in action. This does not allow, however, Board members to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments. No shouting or physical actions that could be construed as threatening will be tolerated. Board members should conduct themselves in a professional manner at all times, including dress.

Honor the role of the Mayor in maintaining order. It is the responsibility of the Mayor to keep the comments of Board members on track during public meetings. Board members should honor efforts by the Mayor to focus discussion on current agenda items. If there is disagreement about the agenda or the Mayor's actions, those objections should be voiced politely and with reason, following procedures outlined in parliamentary procedure.

Avoid personal comments that could offend other Board members. If a Board member is personally offended by the remarks of another Board member, the offended Board member should make notes of the actual words used and call for a "point of personal privilege" that challenges the other Board member to justify or apologize for the language used. The Mayor will maintain control of this discussion.

Demonstrate effective problem-solving approaches. Board members have a public stage to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.

Be punctual and keep comments relative to topics discussed. Board members have made a commitment to attend meetings and partake in discussions. Therefore, it is important that Board members be punctual and that meetings start on time. It is equally important that discussions on issues be relative to the topic at hand to allow adequate time to fully discuss scheduled issues.

IN PRIVATE ENCOUNTERS

Continue respectful behavior in private. The same level of respect and consideration of differing points of view that is deemed appropriate for public discussions should be maintained in private conversations.

Be aware of the insecurity of written notes, voicemail messages, and e-mail. Technology allows words written or said without much forethought to be distributed wide and far. Would you feel comfortable to have this note faxed to others? How would you feel if this voicemail message was played on a speakerphone in a full office? What would happen if this e-mail message was forwarded to others? Written notes, voicemail messages and e-mail should be treated as potentially "public" communication.

Even private conversations can have a public presence. Elected officials are always on display-people around them that they may not know monitor their actions, mannerisms, and language. Lunch table conversations will be eavesdropped upon, parking lot debates will be watched, and casual comments between individuals before and after public meetings noted.

Board Conduct with Town Staff

Governance of a Town relies on the cooperative efforts of elected officials, who set policy, and Town staff, who implement and administer the Board's policies. Therefore, every effort should be made to be cooperative and show mutual respect for the contributions made by each individual for the good of the community.

Treat all staff as professionals. Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor behavior towards staff is not acceptable.

Limit contact to specific Town staff. Questions of Town staff and/or requests for additional background information should be directed to the Town Administrator, Town Attorney, or Department Heads. The Town Administrator should be copied on or informed of any request.

Requests for follow-up or directions to staff should be made only through the Town Administrator or the Town Attorney when appropriate. When in doubt about what staff contact is appropriate, Board members should ask the Town Administrator for direction. Materials supplied to a Board member in response to a request will be made available to all members of the Board so that all have equal access to information.

Do not disrupt Town staff from their jobs. Board members should not disrupt Town staff while they are in meetings, on the phone, or engrossed in performing their job functions in order to have their individual needs met.

Never publicly criticize an individual employee. Board members should never express concerns about the performance of a Town employee in public, to the employee directly, or to the employee's manager. Comments about staff performance should only be made to the Town Administrator through private correspondence or conversation.

Do not get involved in administrative functions. Board members must not attempt to influence Town staff on the making of appointments, the awarding of contracts, selecting of consultants, processing of development applications, or granting of Town licenses and permits.

Check with Town staff on correspondence before taking action. Before sending correspondence, Board members should check with Town staff to see if an official Town response has already been sent or is in progress.

Do not attend meetings with Town staff unless requested by staff. Even if the Board member does not say anything, the Board member's presence implies support, shows partiality, intimidates staff, and hampers staff's ability to do their job objectively.

Limit requests for staff support. The Town Clerk opens all mail for Board members. Mail addressed to the Mayor is reviewed first by the Town Administrator who notes suggested action and/or follow-up items.

Requests for additional staff support – even in high priority or emergency situations -- should be made to the Town Administrator who is responsible for allocating Town resources in order to maintain a professional, well-run Town government.

Do not solicit political support from staff. Board members should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, etc.) from Town staff. Town staff may, as private citizens with constitutional rights, support political candidates but all such activities must be done away from the workplace.

Board Conduct with the Public

IN PUBLIC MEETINGS

Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice or disrespect should be evident on the part of individual Board members toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony.

Be welcoming to speakers and treat them with care and gentleness. Speaking in front of the Board of Trustees can be a difficult experience for some people. Some issues the Board undertakes may affect people's daily lives and homes. Some decisions are emotional. The way that the Board treats people during public hearings can do a lot to make them relax or to push their emotions to a higher level of intensity.

Be fair and equitable in allocating public hearing time to individual speakers. The Mayor will determine and announce limits on speakers at the start of the public hearing process. Generally, each speaker will be allocated three (3) minutes with applicants and appellants or their designated representatives allowed more time. If many speakers are anticipated, the Mayor may shorten the time limit and/or ask speakers to limit themselves to new information and points of view not already covered by previous speakers.

No speaker will be turned away unless he or she exhibits inappropriate behavior. Each speaker may only speak once during the public hearing unless the Board requests additional clarification later in the process. After the close of the public hearing, no more public testimony will be accepted unless the Mayor reopens the public hearing for a limited and specific purpose.

Give the appearance of active listening. It is disconcerting to speakers to have Board members not look at them when they are speaking. It is fine to look down at documents or to make notes, but reading for a long period of time or gazing around the room gives the appearance of disinterest. Be aware of facial expressions, especially those that could be interpreted as "smirking," disbelief, anger or boredom.

Ask for clarification, but avoid debate and argument with the public. Only the Mayor – not individual Board members -- can interrupt a speaker during a presentation. However, a Board member can ask the Mayor for a point of order if the speaker is off the topic or exhibiting behavior or language the Board member finds disturbing.

If speakers become flustered or defensive by Trustee questions, it is the responsibility of the Mayor to calm and focus the speaker and to maintain the order and decorum of the meeting. Questions by Board members to members of the public testifying should seek to clarify or expand information. It is never appropriate to challenge or belittle the speaker. Board members' personal opinions or inclinations about upcoming votes should not be revealed until after the public hearing is closed.

No personal attacks of any kind, under any circumstance. Board members should be aware that their body language and tone of voice, as well as the words they use, can appear to be intimidating or aggressive.

Follow parliamentary procedure in conducting public meetings. The Town Attorney serves as advisory parliamentarian for the Town and is available to answer questions or interpret situations according to parliamentary procedures. Final rulings on parliamentary procedure are made by the Mayor, subject to the appeal of the full Board of Trustees.

IN UNOFFICIAL SETTINGS

Make no promises on behalf of the Board. Board members will frequently be asked to explain a Board action or to give their opinion about an issue as they meet and talk with constituents in the community. It is appropriate to give a brief overview of Town policy and to refer to Town staff for further information. It is inappropriate to overtly or implicitly promise Board action, or to promise that Town staff will do something specific (fix a pothole, remove a library book, plant new flowers in the median, etc.).

Make no personal comments about other Board members. It is acceptable to publicly disagree about an issue, but it is unacceptable to make derogatory comments about other Board members, their opinions and actions.

Remember that despite its impressive recent growth, Johnstown is a small community at heart. The community is constantly observing board members every day that they serve in office. Their behaviors and comments serve as models for proper deportment in the Town of Johnstown. Honesty and respect for the dignity of each

individual should be reflected in every word and action taken by Board members, 24 hours a day, seven days a week. It is a serious and continuous responsibility.

Board Conduct with Other Public Agencies

Be clear about representing the Town or personal interests. If a Board member appears before another governmental agency or organization to give a statement on an issue, the Board member must clearly state: 1) if his or her statement reflects personal opinion or is the official stance of the Town; 2) whether this is the majority or minority opinion of the Board. Even if the Board member is representing his or her own personal opinions, remember that this still may reflect upon the Town as an organization.

If the Board member is representing the Town, the Board member must support and advocate the official Town position on an issue, not a personal viewpoint.

If the Board member is representing another organization whose position is different from the Town, the Board member should withdraw from voting on the issue if it significantly impacts or is detrimental to the Town's interest. Board members should be clear about which organizations they represent and inform the Mayor and Board of their involvement.

Correspondence also should be equally clear about representation. Town letterhead may be used when the Board member is representing the Town and the Town's official position. A copy of official correspondence should be given to the Town Clerk to be filed as part of the permanent public record.

It is best that Town letterhead not be used for correspondence of Board members representing a personal point of view, or a dissenting point of view from an official Board position.

Town Board Conduct With Other Boards and Commissions

The Town has established several Boards and Commissions as a means of gathering more community input. Citizens who serve on Boards and Commissions become more involved in government and serve as advisors to the Town Board. They are a valuable resource to the Town's leadership and should be treated with appreciation and respect.

If attending a Board or Commission meeting, be careful to only express personal opinions. Town Board members may attend any Board or Commission meeting, which are always open to any member of the public. However, if the Board or Commission is conducting a public hearing, the Town Board member shall remove themselves from the

proceedings. Town Board members should be sensitive to the way their participation – especially if it is on behalf of an individual, business or developer -- could be viewed as unfairly affecting the process. Any public comments by a Town Board member at a Board or Commission meeting should be clearly made as individual opinion and not a representation of the feelings of the entire Town Board. Also, a Town Board member's presence may affect the conduct of the Board or Commission and limit their role and function.

Limit contact with Board and Commission members. It is inappropriate for a Town Board member to contact a Board or Commission member to lobby on behalf of an individual, business, or developer. Town Board members should contact staff in order to clarify a position taken by the Board or Commission.

Remember that Boards and Commissions serve the community, not individual Board members. The Town Board appoints individuals to serve on Boards and Commissions, and it is the responsibility of Boards and Commissions to follow policy established by the Town Board. But Board and Commission members do not report to individual Town Board members, nor should Town Board members feel they have the power or right to threaten Board and Commission members with removal if they disagree about an issue. Appointment and re-appointment to a Board or Commission should be based on such criteria as expertise, ability to work with staff and the public, and commitment to fulfilling official duties. A Board or Commission appointment should not be used as a political "reward."

Be respectful of diverse opinions. A primary role of Boards and Commissions is to represent many points of view in the community and to provide the Town Board with advice based on a full spectrum of concerns and perspectives. Town Board members must be fair and respectful of all citizens serving on Boards and Commissions.

Keep political support away from public forums. Board and Commission members may offer political support to a Town Board member, but not in a public forum while conducting official duties. Conversely, Town Board members may support Board and Commission members who are running for office, but not in an official forum in their capacity as a Town Board member.

Inappropriate behavior can lead to removal. Inappropriate behavior by a Board or Commission member should be noted to the Mayor, and the Mayor should counsel the offending member. If inappropriate behavior continues, the Mayor should bring the situation to the attention of the Town Board and the individual may be subject to removal from the Board or Commission.

Board Member Conduct with The Media

Board members may be contacted by the media for background and quotes.

The best advice for dealing with the media is to never go "off the record." Most members of the media represent the highest levels of journalistic integrity and ethics, and can be trusted to keep their word. But one bad experience can be catastrophic. Words that are not said cannot be quoted.

The Mayor is the official spokesperson for the official Town position. The Mayor is the designated representative of the Town Board to present and speak on the official Town position. If the media contacts an individual Board member, the Board member should be clear about whether their comments represent the official Town position or a personal viewpoint.

Choose words carefully and cautiously. Comments taken out of context can cause problems. Be especially cautious about humor, sarcasm, or word play. It is never appropriate to use personal slurs or swear words when talking with the media.

Sanctions

Public Disruption. Members of the public who do not follow proper conduct after a warning in a public hearing may be barred from further testimony at that meeting or removed from the Town Board meeting room.

Inappropriate Staff Behavior. Board members should refer to the Town Administrator any Town staff that does not follow proper conduct in their dealings with Board members, other Town staff, or the public. These employees may be disciplined in accordance with standard Town procedures for such actions.

Board Members Behavior and Conduct. Town Board members who intentionally and repeatedly do not follow proper conduct may be reprimanded or formally censured by the Town Board. Serious infractions of the Code of Ethics or Code of Conduct could lead to other sanctions as deemed appropriate by the Town Board.

Staff members who are present during Board meetings shall abide by appropriate standards of conduct and may be disciplined if they act inappropriately. Arguing with or challenging Town Board members is strictly prohibited.

Board members should point out the offending Board member's infractions of the Code of Ethics or Code of Conduct. If the offenses continue, then the matter should be referred to the Mayor in private. If the Mayor is the individual whose actions are being challenged, then the matter should be referred to the Mayor Pro-Tem.

It is the responsibility of the Mayor to initiate action if a Board member's behavior may warrant sanction. If the Mayor takes no action, the alleged violation(s) can be brought up with the full Board in a public meeting.

If violation of the Code of Ethics or Code of Conduct is outside of the observed behaviors by the Mayor or Board members, the alleged violation should be referred to the Mayor. The Mayor should ask the Town Administrator to investigate the allegation and report the findings to the Mayor. It is the Mayor's responsibility to take the next appropriate action. These actions can include, but are not limited to: discussing and counseling the individual on the violations; recommending sanction to the full Board to consider in a public meeting; or forming a Town Board ad hoc subcommittee to review the allegations; the investigation and its findings, as well as to recommend sanction options for Board consideration.

Principles of Proper Conduct

Proper conduct IS ...

- Keeping promises
- Being dependable
- Building a solid reputation
- Participating and being available
- Demonstrating patience
- Showing empathy
- Holding onto ethical principles under stress
- Listening attentively
- Studying thoroughly
- Keeping integrity intact
- Overcoming discouragement
- Going above and beyond, time and time again
- Modeling a professional manner

Proper conduct IS NOT ...

- Showing antagonism or hostility
- Deliberately lying or misleading
- Speaking recklessly
- Spreading rumors
- Stirring up bad feelings, divisiveness
- Acting in a self-righteous manner

It all comes down to respect

Respect for one another as individuals . . . Respect for the validity of different opinions
. . . Respect for the democratic process . . . Respect for the community that we serve.

Checklist for Monitoring Conduct

- Will my decision/statement/action violate the trust, rights or good will of others?
 - What are my internal motives and the spirit behind my actions?
 - If I have to justify my conduct in public tomorrow, will I do so with pride or shame?
 - How would people whose integrity and character I respect evaluate my conduct?
 - Even if my conduct is not illegal or unethical, is it done at someone else's painful expense? Will it destroy their trust in me? Will it harm their reputation?
 - Is my conduct fair? Just? Morally right?
 - If I were on the receiving end of my conduct, would I approve and agree, or would I take offense?
 - Does my conduct give others reason to trust or distrust me?
 - Am I willing to take an ethical stand when it is called for? Am I willing to make my ethical beliefs public in a way that makes it clear what I stand for?
 - Do I exhibit the same conduct in my private life as I do in my public life?
 - Can I take legitimate pride in the way I conduct myself and the example I set?
 - Do I listen and understand the views of others?
 - Do I question and confront different points of view in a constructive manner?
 - Do I work to resolve differences and come to mutual agreement?
 - Do I support others and show respect for their ideas?
 - Will my conduct cause public embarrassment to someone else?
-

Glossary of Terms

| | |
|-----------------------|--|
| Attitude | The manner in which one shows one's dispositions, opinions, and feelings |
| Behavior | External appearance or action; manner of behaving; carriage of oneself |
| Civility | Politeness, consideration, courtesy |
| Conduct | The way one acts; personal behavior |
| Courtesy | Politeness connected with kindness |
| Decorum | Suitable; proper; good taste in behavior |
| Manners | A way of acting; a style, method, or form; the way in which things are done |
| Point of order | An interruption of a meeting to question whether rules or bylaws are being broken, such as the speaker has strayed from the motion currently under |

| | | |
|---------------------------|-----------------|---|
| | | consideration |
| Point of privilege | personal | A challenge to a speaker to defend or apologize for comments that a fellow Board member considers offensive |
| Propriety | | Conforming to acceptable standards of behavior |
| Protocol | | The courtesies that are established as proper and correct |
| Respect | | The act of noticing with attention; holding in esteem; courteous regard |



The Voice of Colorado's Cities and Towns

FAQ: Ethics and Conflicts of Interest

The FAQ column features frequently asked questions submitted to the Colorado Municipal League. This information is of a general nature and should not be interpreted as legal advice. Local facts determine which laws may apply and how, so you should always consult your municipal attorney before proceeding.

COLORADO CONFLICT OF INTEREST AND ethics laws are codified in the Colorado Revised Statutes in Title 31 the Law Governing Municipalities and Title 24 Code of Ethics for Public Officials. The following are frequently asked questions about the laws governing conflict of interest and ethics.

Q: As a member of a local governing body, when am I required to abstain from voting?

When you have a personal or private interest in any matter proposed or pending before the governing body, elected officials are required to abstain from voting. When this situation arises, you must disclose the interest to the governing body, not vote, and not attempt to influence the votes of other members of the governing body. C.R.S. § 31-4-404(2).

Q: What sort of "personal or private interest" triggers this duty not to vote?

There is no direction from statutes in this area. Generally, a personal or private interest is

treated as a pecuniary interest, or financial stake, in the matter at hand. A pecuniary interest standard is applied to avoid the appearance of impropriety among government officials. Always talk to your attorney if you think you may have a personal or private interest in a matter.

Q: Are there situations in which I can vote even if I have a conflict?

Yes. A member of a governing body may vote notwithstanding his or her personal or private interest if such member's participation is necessary to achieve a quorum and disclosure pursuant to § 24-18-110 is made in writing to the secretary of state prior to the official action. C.R.S. § 31-4-404(3).

Q: What other ethical obligations does the law require?

The Code of Ethics sets out a variety of ethical obligations. In addition, your own municipal charter or ordinances may impose obligations. Restrictions involve use of

confidential government information for personal gain, accepting gifts in connection with public services, and any restriction outlined in Amendment 41 to Colorado Constitution (codified at Colo. Const. Art. XXIX). There is a lot of detail regarding ethical obligations for government officials. The bottom line is: do not use your public position for private financial gain and talk to your attorney if you think there may be an issue.

Q: Should I rely on this advice in lieu of contacting my own attorney if I think I have a conflict?

No! This information is intended to be advisory only and merely scratches the surface of ethical obligations. If you think you may have a conflict of interest or another ethical obligation, contact your attorney.

BYLAWS

JOHNSTOWN PLANNING AND ZONING COMMISSION

The following bylaws are hereby adopted by the Planning and Zoning Commission (Commission) of the Town of Johnstown, Colorado in order to:

1. Make the most efficient use of the time of the Commission members and town staff;
2. Improve communications between the Commission and the public-at-large, including local residents, applicants and the other administrative agencies of Johnstown; and,
3. Provide opportunities for Commission orientation and updates on local and regional planning matters, and assist the Town Board in guiding future development.
4. Meet the responsibilities and duties as established in Article X of Chapter 2 of the Johnstown Municipal Code, and applicable state laws.

A. COMMISSION STRUCTURE

1. The officers of the Commission shall be Chair and Vice-Chair, elected each year at the first meeting in June by a majority vote of the members of the Commission in attendance with a quorum.
2. Duties of Officers:
 - a) The Chair shall:
 - i. Preside at all meetings.
 - ii. Appoint committees, special and/or standing and liaisons.
 - iii. Rule on all procedural questions (subject to a reversal by a two-thirds (2/3) majority vote of the members present).
 - iv. Represent the Commission before the Board of Trustees and other public bodies except when this responsibility has been delegated to an appropriate official or Commission member.
 - v. Carry out other duties as assigned by the Commission.
3. The Vice-Chair shall:
 - a) Act in the absence or inability of the Chair to act

- b) Have the powers to function in the same capacity as the Chair in cases of the Chair's absence or inability to act.
- 4. The Secretary is a Town employee assigned by the Town Administrator and shall:
 - a) Keep a file of all official records and reports of the Commission
 - b) Record and certify all minutes of the Commission.
 - c) Prepare and be responsible for the publishing and posting of all advertisements relating to public meetings and hearings of the Commission.

B. SCHEDULE OF MEETINGS

Regular Meetings.

The regular meetings of the Johnstown Planning and Zoning Commission shall be at 7:00 P.M. on the second and fourth Wednesday of each month. In the event a regular meeting is cancelled due to weather or other circumstances, the business items shall be included on the agenda for the earliest available meeting. Required public notice shall be made for the items so rescheduled.

No new business will be considered after 10:00 P.M. unless agreed to by a majority of members present. The meetings will adjourn promptly at 10:30 P.M., or earlier, unless an extension is allowed by a majority of the members present. The order of business shall be:

1. Call To Order
2. Roll Call
3. Public Comment on Matters Not On the Agenda
4. Old Business (Business items that are tabled or carried over from previous meetings, but are not hearings).
5. New Business
6. Public Hearings
7. Consent Agenda
8. Staff Communication
9. Commissioner Comments and Questions

10. Adjournment

If an agenda item is not ready for Commission consideration, the Chair may, after consulting the Commissioners, place the item at the end of the regular agenda. If the item is still not ready the Commission shall vote to postpone the item to a specific, future Commission meeting.

The Commission should not accept new information from the applicant. Applicant presentations shall be confined to discussion and display of materials included in the Commissioner meeting packets.

2. Worksessions

The second Wednesday of each month will be reserved but not exclusively and, workload permitting, for discussion of any and all internal matters of the Commission, including reports and recommendations of the various subcommittees.

3. Special meetings may be called at any time by the Chair or three members provided public notice is given once the meeting is called.

4. Attendance.

- a) Commissioners are expected to make all meetings. In the event that a Commissioner cannot attend at meeting, the Commissioner should notify the Secretary no later than 12:00 noon on the day of the meeting.
- b) If a Commissioner is absent for more than three meetings in a calendar year, for no substantial reason as determined by the Commission, the Commissioners may direct the Chair to recommend to the Board that the Board review the Commissioner's appointment.

5. Commissioner Service Recognition.

At the conclusion of a Commissioner's term of office, the Commission will formally recognize his or her service, such as a certificate and/or notice in the newspaper of local circulation.

C. PUBLIC NOTICE OF MEETINGS

1. All regular and special meetings of the commission shall have at least three days notice. Notice shall be posted at the Town Hall in the officially designated location. All meetings of the Commission or any of its committees shall be open to the public, except for executive sessions, which must be conducted in accordance with state and local laws.
2. Public Hearings allow, after presentation by applicant and staff, any individual to address the Commission regarding the business item. Individual speakers will be limited to 3

minutes unless prior approval is obtained from the Chair. Groups that are represented by a single spokesperson are allowed 10 minutes unless prior approval is obtained from the Chair.

3. At each regular meeting of the Commission, the applicant and all persons having an interest in, or desiring to be heard upon any matter which is the subject of a specific public hearing, shall be given an opportunity to be heard during such public hearing portion of the meeting, and in addition thereto, there shall be a time during such regular meetings for members of the public to address the Commission concerning any matter relevant to the Commission's jurisdiction and not on the agenda for specific public hearing at such meeting. The time period for such public participation, and any reasonable limitations thereon, shall be established from time to time by the Commission.

D. COMMITTEES

1. From time to time the Commission may need to establish short-term committees to accomplish specific tasks for the Commission. The Chair of the Commission shall appoint such committees with appropriate instructions as deemed necessary, including appointment of a Committee Chair.
2. Committee Chairs shall have full responsibility for conducting the affairs of their committees and reporting to the full Commission.

E. RULES OF PROCEEDINGS

1. Meetings shall be conducted under Robert's Rules of Order, and the Commission may adopt such modified or amended procedural rules, as it deems appropriate, subject to local and state laws, including the Open Meetings Law.
2. A majority of the membership of the Commission (4 members) shall constitute a quorum. When a quorum is present, a majority vote, that is a majority of the votes cast, ignoring abstentions, is sufficient for the adoption of any motion. Voting may be by roll call or any other method chosen by the Chair. In all cases a record shall be kept as part of the minutes. Any member shall have the right to demand a roll call vote.
3. The Commission shall take official action by approval of a motion. Motions shall clearly specify action. If conditions are imposed, the conditions should be as specific as possible, and include the result desired, deadlines or benchmarks and consequences if the condition is not met. Discussion and debate on any motion occurs after the motion has been made and seconded.

4. Any member of the Commission may request to have any item removed from the consent agenda. Such request need not be seconded. The Commission shall then take up such item for discussion. A single motion and roll call vote in favor thereof shall approve all items remaining on the consent agenda.
5. Motions for tabling an item should include reason(s) for tabling.

F. ELECTION OF OFFICERS

The voting procedure for annual election of the Chair and Vice Chair is as follows:

The Town Planner, acting as Moderator, calls the meeting to order and asks for a secret vote for the election of the Chair by written ballot. The Planner receives the ballots, tallies the votes and announces the totals. The Commissioner receiving the greatest number of votes shall be the Chair, but a motion must be made with the majority vote to appoint the Chair. The same procedure follows for Vice-Chair. Written ballots shall be retained by the Secretary until the next election of officers.

G. AMENDMENTS

These by-laws may be changed by a two-thirds (2/3) vote of the entire membership.

BYLAWS
JOHNSTOWN PLANNING AND ZONING COMMISSION
(Amended & Adopted on _____)

The following bylaws are hereby adopted by the Planning and Zoning Commission (Commission) of the Town of Johnstown, Colorado in order to:

1. Operate efficiently and effectively;
2. Improve communications between the Commission and Johnstown stakeholders; and,
3. Prepare, maintain, and help implement the Town's Comprehensive Plan and development codes, to guide development and community growth.
4. Meet the responsibilities and duties as established in the Johnstown Municipal Code, and applicable state laws.

A. COMMISSION STRUCTURE

1. **Members.** The Planning and Zoning Commission shall consist of seven (7) members who shall be appointed at the discretion of the Town Council.
2. **Term.** The term of each appointed member shall be four (4) years or until his or her successor takes office. Members are not term limited. (JMC 2-182)
3. **Officers.** The Planning and Zoning Commission shall elect its Chair from among the appointed members and create and fill such other of its offices as it may determine. The term of the Chair shall be two (2) years, with eligibility for re-election. (JMC 2-184) This bi-annual election shall be held on the last meeting of the calendar year, or first meeting of the following year, or if there is an officer vacancy.
 - a. The voting procedure for annual election of the Chair and Vice Chair is as follows: the Planning & Development Director or staff designee, acting as Moderator, calls the meeting to order and asks for a secret vote for the election of the Chair by written ballot. The Director receives the ballots, tallies the votes and announces the totals. The Commissioner receiving the greatest number of votes shall be the Chair, but a motion must be made with the majority vote to appoint the Chair. The same procedure follows for Vice-Chair. Written ballots shall be retained by the Secretary until the next election of officers.
4. **Duties of Officers:**
 - a. The Chair shall:
 - i. Preside at all meetings at which they are present.
 - ii. Ensure all meetings are conducted with decorum and efficiency.
 - iii. Appoint committees, special and/or standing and liaisons.

- iv. Rule on all procedural questions (subject to a reversal by a two-thirds (2/3) majority vote of the members present).
 - v. Represent the Commission before the Board of Trustees and other public bodies except when this responsibility has been delegated to an appropriate official or Commission member.
 - vi. Sign the minutes, or other documents, approved by the Commission.
 - vii. Carry out other duties as assigned by the Commission.
- a. The Vice-Chair shall:
 - 1. Act in the absence or inability of the Chair to act
 - 2. Have the powers to function in the same capacity as the Chair in cases of the Chair's absence or inability to act.
 - b. The Secretary is a Town employee assigned by the Town Administrator and shall:
 - 1. Keep a file of all official records and reports of the Commission
 - 2. Record and certify all minutes of the Commission.
 - 3. Prepare and be responsible for the publishing and posting of all notices relating to public meetings and hearings of the Commission.
- 5. Chair Pro Tem. In the event the Chair and Vice Chair are both absent or unable to act in a regular or special meeting where a quorum is present, another member of the Commission shall be chosen by the Commission to perform the responsibilities of the Chair for the meeting.
 - 6. Committees. From time to time the Commission may need to establish short-term committees to accomplish specific tasks for the Commission. The Chair of the Commission shall appoint such committees with appropriate instructions and clarification of purpose as deemed necessary, including appointment of a Committee Chair. Committee Chairs shall have full responsibility for conducting the affairs of their committees and reporting to the full Commission.

B. COMMISSION APPOINTMENT AND MEMBERSHIP

- 1. Resident requirement. All members of the Planning and Zoning Commission shall be residents in the Town. If any member ceases to reside in the Town, his or her membership shall immediately terminate.
- 2. Compensation. All members of the Planning and Zoning Commission shall serve as such without compensation. (JMC 2-183)
- 3. Vacancy. Vacancies on the Commission shall be reported to Council and widely advertised on the Town's typical communication media.
 - a. Applications for vacancies shall be accepted for no less than one month, with such application form managed by the Town Clerk, and reviewed by the Director of Planning and Development.

- b. Eligible candidate applications shall be presented to the Commission for evaluation. The Commission may choose a candidate from the written applications, or request that one or more candidates appear before them at a regular meeting for a brief interview.
 - c. In the event of multiple candidates or vacancies, the Commission may determine the best course for voting on their recommendation to Council for appointment.
 - d. Once a candidate(s) is chosen, that Candidate will be presented by the Director at the next available Town Council regular meeting for appointment to the Commission.
- 4. Attendance. Commissioners are expected to attend all meetings. In the event that a Commissioner cannot attend a meeting, they shall notify the Secretary as soon as possible. Planned absences shall be reported as soon as that is known.
- 5. Absences. If a Commissioner is absent from more than three regular meetings in a calendar year, the Commissioners may direct the Chair to recommend to the Town Council that the Council review the Commissioner's appointment and impact of their absences.
- 6. Appointment & Oath. Upon Appointment to the Commission by the Town Council, the Town Clerk shall administer the oath of office on or before the first meeting attended by that Commissioner.

C. MEETINGS

- 1. Regular Meetings. The Planning and Zoning Commission shall hold at least one (1) regular meeting in each month, unless there is no Town business to come before the Commission during any such month. (JMC §2-184)
 - a. Regular meetings of the Johnstown Planning and Zoning Commission shall be typically be scheduled for 7:00 P.M. on the second and fourth Wednesday of each month; but may occur otherwise to accommodate holidays or conflicts in Town meetings schedules. In the event a regular meeting is cancelled due to weather or other circumstances, the business items shall be included on the agenda for the earliest available meeting.
 - b. All meetings are open to the public. Action of the Commission shall be in full compliance with Colorado statutes governing open meetings.
 - c. No new business will be considered after 10:00 P.M., unless agreed to by a majority of members present. The meetings will adjourn promptly at 10:30 P.M., or earlier, unless an extension is allowed by a majority of the members present. The typical order of business:
 - Call To Order
 - Roll Call
 - Public Comment on matters not on the Agenda
 - Old Business (Business items that are tabled or carried over from previous meetings, but are not hearings).
 - New Business
 - Public Hearings

- Consent Agenda
 - Staff Communication
 - Commissioner Comments and Questions
 - Adjournment
- d. If an agenda item is not ready for Commission consideration, the Chair may, after consulting the Commissioners, place the item at the end of the regular agenda. If the item is still not ready the Commission shall vote to postpone the item to a specific, future Commission meeting.
 - e. The Commission should not accept new information from the applicant. Applicant presentations shall be confined to discussion and display of materials included in the Commissioner meeting packets.
2. Worksessions. The second Wednesday of each month will be reserved, but not exclusively, and workload permitting, for discussion of any and all internal matters of the Commission, including reports and recommendations of any subcommittees.
 3. Special Meetings. Special Meetings may be called at any time by the Chair or three members provided standard open meeting notice, at minimum, is given once the meeting is called.
 4. Public Notice. In addition to current open meetings statutes and code requirements in the Johnstown Municipal Code, Chapter 16, all regular and special meetings of the commission shall have at least three days notice. Notice shall be posted at the Town Hall in the officially designated location. All meetings of the Commission or any of its committees shall be open to the public, except for executive sessions, which must be conducted in accordance with state and local laws.
 5. Public Hearings. Public Hearings shall allow, after presentation by applicant and staff, any individual to address the Commission regarding the business item. Individual speakers will be limited to 3 minutes unless prior approval is obtained from the Chair. Groups that are represented by a single spokesperson are allowed 10 minutes unless prior approval is obtained from the Chair.
 6. Public Comment. There shall be a time during such regular meetings for members of the public to address the Commission concerning any matter relevant to the Commission's jurisdiction and not on the agenda for specific public hearing at such meeting. The time period for such public participation, and any reasonable limitations thereon, shall be established from time to time by the Commission, typically 3 minutes unless a special presentation is arranged prior to the meeting.

D. RULES OF PROCEEDINGS

1. Rules. Meetings shall be conducted under Robert's Rules of Order, and the Commission may adopt such modified or amended procedural rules, as it deems appropriate, subject to local and state laws, including the Open Meetings Law.
2. Quorum. A majority of the membership of the Commission (4 members) shall constitute a quorum. When a quorum is present, a majority vote, that is a majority of the votes cast, ignoring abstentions, is sufficient for the adoption of any motion. Voting may be by roll call or any other method chosen by the Chair. In all cases a record shall be kept as part of the minutes. Any member shall have the right to demand a roll call vote.

3. Motions. The Commission shall take official action by approval of a motion. Motions shall clearly specify action. If conditions are imposed, the conditions should be as specific as possible, and include the result desired, deadlines or benchmarks and consequences if the condition is not met. Discussion and debate on any motion occurs after the motion has been made and seconded.
 4. Consent Agenda. A consent agenda may be utilized for typical and standard action that does not require a public hearing, such as approving minutes or reports. Any member of the Commission may request to have any item removed from the consent agenda; such request need not be seconded. The Commission shall then take up such item for discussion. A single motion and vote in favor thereof shall approve all items remaining on the consent agenda.
 5. Continue and Issue/Item. Motions to continue an issue or item may be made with a date certain for continuance of the item discussion or public hearing. No additional public notification is required.
 6. Table an Issue/Item. Motions for tabling an item should include reason(s) for tabling. A tabled issue does not have a future date set, and must be re-noticed if required initially.
- E. REVIEW & AMENDMENTS.** These by-laws shall be reviewed periodically, and may be amended by a two-thirds (2/3) vote of the entire current Commission membership.



Town of Johnstown

Email for Appointed Officials – Planning & Zoning Commission

USER AGREEMENT:

I hereby agree and acknowledge that by accepting access to and using my assigned “@johnstownco.gov” email address, I am agreeing to abide by the following policies set forth below by Town Staff and the Town Attorney:

General Policies:

1. Town email addresses will be used for official P&Z Commission business only, within this role to which I am appointed.
2. The main use of this email will be to receive communications from the Town related to Town meetings and events, to report anticipated absences, or request additional information from the Town.
3. Electronic files associated with all email communications will be kept and maintained by the Town within its computer facilities, subject to records management best practices.
4. I reaffirm my ongoing commitment to adhere to all applicable requirements of Colorado law regarding open meetings, open records, and fair campaign practices.
5. The Colorado Open Records Act applies to ALL electronic mail communication kept or maintained by the Town. Do not delete emails associated with this account.
6. I will continue to follow set rules and requirements barring Planning & Zoning Commissioners from having direct contact or correspondence with any applicants, developers, owners, or entities related to active projects under review. Any such attempt to contact me will be immediately directed to the Planning & Development Director or Town Manager.
7. Upon end of my term as a commissioner, I will cease using the provided email address and recognize that my access to that email address will be terminated.

Email address: (first initial)(last name)@johnstownco.gov

User Name: toj/(first initial)(last name)

Accessing Town email from private PC:

1. Ensure access to the internet & open a web browser window.
2. Click link or type: <https://remote.townofjohnstown.com/owa>
3. Enter your **User Name** in the e-mail address field.
4. Enter temporary password: as assigned
5. You will be prompted to create a new password at your initial login.

To access Town email from smartphone: [Android instructions](#) – [iPhone iOS instructions](#)

Let the Director know if you have any problems accessing: kmeyer@johnstownco.gov

For Town email IT Support: support@johnstownco.gov

The Community That Cares

johnstown.colorado.gov

P: 970.587.4664 | 450 S. Parish Ave, Johnstown CO 80534 | F: 970.587.0141